

PUBLIC RECORD

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

Dates: 10/11/2025 - 21/11/2025

Doctor:	Dr ARUNODAY	
GMC reference number:	6073654	
Primary medical qualification:	MB BS 1998 L N Mithila University	
Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ian Comfort
Lay Tribunal Member:	Billy McClune
Registrant Tribunal Member:	Dr Ranjana Rani
Tribunal Clerk:	Laurence Millea

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Alexandra Felix, Counsel, instructed by the MDU
GMC Representative:	Jacob Dyer, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 20/11/2025

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

Background

2. Dr Arunoday qualified as a doctor in 1998 and registered with the GMC in August of 2005. Dr Arunoday completed his specialist training in neonatal medicine in 2019 and was employed as a Neonatal Consultant at XXX Hospital from October 2019.

3. At the time of the events Dr Arunoday was practising as a Consultant Neonatologist at the Northern Care Alliance NHS Foundation Trust ('the Trust').

4. The allegation that has led to Dr Arunoday's hearing can be summarised as, on more than one occasion between XXX 2021 and XXX 2021 whilst working at the Northern Care Alliance NHS Foundation Trust, Dr Arunoday behaved inappropriately towards Ms A without her consent. It is also alleged that, on XXX 2021, Dr Arunoday went to Ms A's home uninvited. It is further alleged that Dr Arunoday's actions constituted sexual harassment, were sexually motivated and were an abuse of his more senior position.

5. Ms A initially reported concerns to the Trust in XXX 2021. In September 2022, Ms A reported matters to the police. Dr Arunoday was subsequently arrested, interviewed and bailed. He was released from bail in April 2024 with no further action being taken.

6. Dr Arunoday self-referred to the GMC in October of 2022 as a result of allegations that had been made by Ms A.

The Outcome of Applications Made during the Facts Stage

7. The Tribunal refused the GMC's application, made pursuant to Rule 34(1) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to admit further evidence. The Tribunal's full decision on the application is included at Annex A.

8. The Tribunal granted an application made on behalf of Dr Arunoday, made pursuant to Rule 16 of the Rules, that the GMC's pre-hearing Rule 28 Application to withdraw the Allegation be disclosed. The Tribunal's full decision on the application is included at Annex B.

9. The Tribunal refused an application made on behalf of Dr Arunoday, made pursuant to Rule 29 of the Rules, to adjourn to allow under Ms Felix, KC, to pursue withdrawal of the GMC case under Rule 28(2). The Tribunal's full decision on the application is included at Annex C.

10. The Tribunal granted the GMC's application, made pursuant to Rule 17(6) of the Rules, to amend the Allegation. This application was not opposed by Ms Felix, counsel, on behalf of Dr Arunoday.

11. The Tribunal granted the GMC's application for witness Mr B, who was scheduled to attend St James Building, to give his evidence via video link. This application was not opposed by Ms Felix, counsel, on behalf of Dr Arunoday.

12. The Tribunal granted the GMC's application, made pursuant to Rule 34(1) to admit Ms C's signed witness statement as hearsay evidence. This application was not opposed by Ms Felix on behalf of Dr Arunoday, and it was a matter for the Tribunal as to what weight to attach to this evidence given that Ms C did not attend to give oral evidence.

13. The Tribunal, of its own volition, determined that as this was a case of alleged sexual assault, the complainant, Ms A should be formally anonymised throughout proceedings.

The Allegation and the Doctor's Response

14. The Allegation made against Dr Arunoday is as follows:

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

1. On one or more occasion between XXX 2021 and XXX 2021, whilst working as a Consultant at the Northern Care Alliance NHS Foundation Trust ('the Trust'), you behaved inappropriately towards Ms A, in that you:

a. sent Ms A a large quantity of messages some of which were:

i. of a sexual nature;

To be determined

ii, aggressive;

To be determined

iii. contained images of your penis.

To be determined

b. asked Ms A inappropriate questions as set out in Schedule 1;

To be determined

c. told Ms A that you:

i. wanted to do sexual things to her;

To be determined

ii. wanted to ejaculate inside her;

To be determined

iii. wanted to have sex with her;

To be determined

iv. that you would just come inside her even though she said you couldn't or words to that effect;

To be determined

v. were watching her location on XXX;

To be determined

- d. asked Ms A on one or more occasion to go to your on-call room for sex;

To be determined

- e. contacted Ms A by video call and showed her your penis.

To be determined

2. On XXX 2021, in an on-call room at the Trust, you:

- a. tried to kiss Ms A;

To be determined

- ~~b. penetrated Ms A's vagina with your penis;~~

Amended under Rule 17(6)

- c. had penile / vaginal sexual intercourse with Ms A.

Amended under Rule 17(6), Admitted and found proved

3. Whilst carrying out the actions described at paragraph 2 you:

- a. ignored Ms A telling you to stop;

To be determined

- b. put your hand over Ms A's mouth;

To be determined

- c. placed your arm across Ms A's chest;

To be determined

- d. placed your body weight on top of Ms A.

To be determined

4. Your actions as described at paragraph 2 and 3b, 3c and 3d were undertaken without:

- a. Ms A's consent;

To be determined

- b. reasonable belief that Ms A was consenting to those actions.

To be determined

5. On a date on or around XXX 2021, you:

- a. turned up at Ms A's home address uninvited;

To be determined

- b. tried to kiss Ms A;

To be determined

- c. touched Ms A on the breasts;

Admitted and found proved

- d. ~~used~~ **engaged in sexual activity involving the use of** your penis to
penetrate Ms A's: **Amended under Rule 17(6)**

- i. vagina;

To be determined

- ii. anus;

To be determined

- iii. mouth;

To be determined

- e. ~~had sexual intercourse with Ms A.~~

Amended under Rule 17(6)

6. Whilst carrying out the actions described at paragraph 5, you:

- a. ignored Ms A telling you to stop;

To be determined

- b. pushed Ms A down by her shoulders on to the bed;

To be determined

- c. pinned Ms A on the bed.

To be determined

7. Your actions as described at paragraph 5 and 6b and 6c were undertaken without:

- a. Ms A's consent;

To be determined

- b. reasonable belief that Ms A was consenting to those actions.

To be determined

8. On one or more occasion on or around XXX 2021 whilst working XXX with Ms A, you:

- a. asked Ms A if she wanted to have sex with you;

To be determined

- b. asked if you could kiss Ms A;

To be determined

- c. put your hand on Ms A's leg;

To be determined

- d. stroked Ms A on the hand.

To be determined

9. Your actions as described at paragraphs 1, 2, 3, 5, 6 and 8:

- a. 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 Ms A; **To be determined**

- b. were sexually motivated; **To be determined**
- c. were an abuse of your more senior position. **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

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

Witness Evidence

16. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Ms A, in person, who provided a written witness statement dated 22 October 2024;
- Mr B, ex-partner of Ms A, in person, who provided a written witness statement dated 24 April 2025;
- Mr D, XXX, the Trust, in person, who provided a written witness statement dated 8 May 2025.

17. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witness who did not attend to give oral evidence:

- Ms C, XXX, the Trust, in person, dated 24 April 2025.

18. Dr Arunoday provided his own witness statement dated 2 October 2025, and gave oral evidence at the hearing.

Documentary Evidence

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

- Transcript of Police interview of Ms A, dated 16 September 2022
- Ms A's Trust statement, dated XXX 2021
- Ms A's Trust supplemental statement, dated 23 December 2022
- Messages between Dr Arunoday and Ms A
- Police statement of Mr B, dated 23 January 2023
- Police statement of Ms C, dated 8 December 2022
- Police statement of Mr D, dated 14 October 2022
- Transcript of Police interview with Dr Arunoday, dated 18 September 2022
- Screenshot of Dr Arunoday's XXX page

The Tribunal's Approach

20. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Arunoday does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred.

21. Ms Felix referred the Tribunal to the Supreme Court case of *Jones v Birmingham City Council* [2023] UKSC 27. Paragraph 51 of that judgment reads:

(1)...

(2) *...the inherent improbability of an event having occurred will, as a matter of common sense, be a relevant factor when deciding whether it did in fact occur. As a result, proof of an improbable event may require more cogent evidence than might otherwise be required.*

(3) *However, the seriousness of an allegation, or of the consequences which would follow for a defendant if an allegation is proved, does not necessarily affect the likelihood of its being true. As a result, there cannot be a general rule that the seriousness of an allegation or of the consequences of upholding an allegation justifies a requirement of more cogent evidence where the civil standard is applied.*

22. The Tribunal took account of the detailed legal submissions provided by Ms Felix and the advice provided by the Legally Qualified Chair. This is summarised below.

23. The Tribunal should take into account the principles derived from the case of *Gestmin SGPS S.A. v Credit Suisse [2013] EWCA 3560 (Comm)* in relation to the credibility of witnesses and the reliability of evidence. In particular: how human memory is fallible; memories are fluid and malleable; external information can intrude into a witness's memory; events can be recalled as memories which did not happen; and that considerable interference with memory can be introduced when preparing for a hearing.

24. In any approach to the fact finding stage care must be taken to avoid considering each part of the evidence in isolation. The Tribunal should consider the reliability of the evidence as a global picture and not in isolation.

25. Witness evidence is one part of the evidence. Objective evidence, for example contemporaneous documents, should be considered first. However, corroborating documentary evidence is not always available. Where the case turns upon which oral account to accept, the approach of first considering documentary evidence before assessing the credibility of a witness's oral account has less significance (*Byrne v General Medical Council [2021] EWHC 2237 (Admin)*).

26. In a case where the complainant provides an oral account, and there is a flat denial from the other person concerned, and little or no independent evidence, it is commonplace for there to be inconsistency and confusion in some of the detail. Nevertheless the task of the Tribunal is to consider whether the core allegations are true.

27. Tribunals should consider all of the evidence before them before coming to a conclusion about a witness's credibility. This could include conflicts in evidence with another witness, denials of the allegations and reasons why they could not be true.

28. It is open to a Tribunal not to rule out the whole of a witness's evidence based on credibility; credibility can be divisible. The important question is whether the witness is reliable.

Sexual Harassment

29. Section 26 (1) of the Equalities Act 2010 ("the Act") provides that:

26 Harassment

- (1) *A person (A), in this case the Doctor, harasses another (B), in this case Ms A if—*
 - (a) *A engages in unwanted conduct related to a relevant protected characteristic (Ms A's sex), and*
 - (b) *the conduct has the purpose or effect of—*
 - (i) *violating B's dignity, or*
 - (ii) *creating an intimidating, hostile, degrading, humiliating or offensive environment for B.*

30. Section 26 (2) goes on to provide that:

- A also harasses B if—*
- (a) *A engages in unwanted conduct of a sexual nature, and*
 - (b) *the conduct has the purpose or effect referred to in subsection (1)(b).*

31. Section 26 (4) of the Act, provides that:

- (4) *In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—*
 - (a) *the perception of B;*
 - (b) *the other circumstances of the case;*
 - (c) *whether it is reasonable for the conduct to have that effect.*

Rape and sexual assault

32. The most serious of the allegations against the Doctor are that he intentionally inserted his penis into Ms A's vagina, anus and/or mouth on one or more occasions without her consent or without a reasonable belief that she did consent. In law this constitutes rape.

33. The Tribunal should not let any false assumptions or misleading stereotypes about rape affect its decision in this case.

34. There is no typical rape, typical rapist or typical person that is raped. Rape can take place in almost any circumstance. It can happen between all different kinds of people, quite often when the people involved are known to each other or may be related.

35. There is no typical response to rape. People can react in many different ways to being raped. These reactions may not be what you would expect or what you think you would do in the same situation.

36. When the Tribunal considers why this allegation was not made earlier, it must not assume that because it was delayed it is untrue. The fact that a complaint is made late does not make the allegation untrue. And a complaint is not necessarily true just because it was made immediately. Different people react to situations in different ways. Some people may tell someone about it straight away. But others may not feel able to do so. This can be out of shame, shock, confusion or fear of getting into trouble, not being believed, or causing problems for other people.

37. The Tribunal should not assume that the way Ms A gave evidence is an indication of whether or not the allegation is true. Witnesses react to giving evidence about allegations of rape or sexual assault in a variety of ways. Some people will show emotion or distress and may cry. But other people will seem very calm or unemotional. The presence or absence of emotion or distress when giving evidence is not a good indication of whether the person is telling the truth or not.

38. Consent is a key issue in these allegations. The GMC must prove, that it is more likely than not, that Ms A did not consent to oral, anal and/or vaginal sex. A person consents to something if they agree to it and they are capable of making a choice and are free to do so. If the Tribunal concludes that it is more likely than not that Ms A did not consent, the GMC must also prove that the Doctor did not reasonably believe Ms A consented. To decide this, the Tribunal needs to answer two questions:

- (i) Did the Doctor genuinely believe, or may the Doctor have genuinely believed, that Ms A consented?; and
- (ii) If the Doctor did or may have believed that Ms A consented, was the Doctor's belief reasonable?

39. If the Tribunal concludes that it is more likely than not that the Doctor did not genuinely believe that Ms A consented, then the Tribunal does not need to answer question 2. But if the Tribunal decides that the Doctor did genuinely believe, or may have believed, that Ms A had consented, the Tribunal must then decide whether the Doctor's belief in Ms A's consent was reasonable. The Tribunal must consider all the evidence presented and

decide whether an ordinary reasonable person, in the same circumstances as the Doctor would have believed Ms A was consenting.

40. There is an important difference between consent and submission. Consent can be given enthusiastically or with reluctance, but it is still consent. But when a person gives in to something against their free will, that is not consent but submission. It is for the Tribunal to decide where the line between consent and submission is to be drawn in this case. To do this it has to consider all of the evidence. There is no requirement to communicate lack of consent. The act of rape imported no requirement that Ms A demonstrate or communicate to the Doctor a lack of consent. What is required is some evidence to be put before the Tribunal of lack of consent, and the nature of that evidence depends on the circumstances of the case. *[R v Malone [1998] 2 Cr App R 447]*.

First Language not English

41. Ms Felix provided submissions in relation to the Doctor's first language not being English and how this may impact on the quality of his evidence. The Tribunal was referred to Chapter 8 of the Equal Treatment Bench book regarding this matter.

Good Character

42. The Tribunal was told that the Doctor was of good character with no previous findings of misconduct or any criminal convictions. Good character is not a defence to any allegation. However, evidence of good character counts in the Doctor's favour in two ways:

- (i) his good character supports his credibility and so is something which the Tribunal should take into account when deciding whether they believe his evidence (the 'credibility limb'); and
- (ii) his good character may mean that he is less likely to have committed the act with which he is charged (the 'propensity limb').

It is for the Tribunal to decide what weight it gives to the evidence of good character, taking into account everything it has heard about the Doctor.

The Tribunal's Analysis of the Evidence and Findings

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

Paragraph 1

1(a)

44. Dr Arunoday admitted that a large quantity of messages were sent by him to Ms A, some of which were of a sexual nature. However, he denied that they were inappropriate and stated that the messages were part of a mutual exchange. He also denied that these messages were aggressive or contained images of his penis.

45. The Tribunal was not provided with any of the messages exchanged on XXX as it was agreed that these were deleted by the system immediately after reading. The Tribunal was only provided with messages from XXX to XXX 2021 on XXX. These were provided by Ms A. She said she had deleted all messages prior to XXX as she found reading them traumatic. Dr Arunoday said that he deleted all messages as he did not want XXX to see them.

46. In determining whether sending Ms A messages of a sexual nature was inappropriate, the Tribunal first considered the nature of the relationship between Dr Arunoday and Ms A, when the messaging commenced and whether this was reciprocal.

47. Ms A had returned to work following a period of absence on or around XXX 2021. At that time, her and Dr Arunoday had a professional relationship as colleagues, chatting occasionally.

48. Ms A's account, as set out in her GMC statement, is that Dr Arunoday started sending her messages through XXX from XXX 2021, when she was on annual leave XXX. Prior to her holiday she had an XXX at work. At the start of her holiday Dr Arunoday messaged her asking if she was ok. She stated that this was out of the blue and that they were not friends on XXX at the time. Her account is that Dr Arunoday's messages changed from asking about her wellbeing to asking her to complete a survey where the questions become more personal and eventually about her sexuality.

49. Ms A stated that she felt pressurised to answer the messages because Dr Arunoday was a consultant and because, at first, they had been work-related questions. In oral evidence she also suggested that she had attempted to avoid answering questions but

eventually complied. Ms A stated that Dr Arunoday had asked her to download XXX a few times during this period and that one of the questions in the survey was along the lines of did she use XXX and what was the likelihood of her downloading XXX. She stated that she had not used XXX before or since and that she had eventually downloaded it due to the pressure Dr Arunoday put on her, and that he then started to message her constantly on it.

50. In her Police interview on 16 September 2022, Ms A was not asked about the specifics of when the messages started or when Dr Arunoday asked her to download XXX to message, but stated that *“the [XXX] had start off quite early on in the situation.”[sic]*

51. Ms A’s statement to the Trust on XXX 2021 reflected the same account as her GMC statement in that whilst she was on annual leave, Dr Arunoday started to send her messages through XXX enquiring how she was. She stated that he had only contacted her a handful of times prior to this and that during this time Dr Arunoday started asking her to download XXX.

52. Dr Arunoday’s account, as set out in his witness statement was that when Ms A went back to work in XXX, they had started to chat more and more when they came across each other on shifts. He stated that initially these conversations were only about work but that they then started to have friendly, casual chats about personal matters, but not of a private or sexual nature at that point. He stated that they had XXX shifts together on XXX and XXX 2021, that it was on one of these two XXX that they had talked about him writing poems and posting them on XXX and that shortly after they became Friends on XXX. He stated *“I cannot now remember if I sent her a Friend request or if it was the other way round. I am sure however that we were Friends and messaging each other for at least 2 or 3 weeks before she went on holiday [XXX].”*

53. Dr Arunoday stated that once they were friends on XXX him and Ms A started messaging each other via XXX regularly and would have long conversations in this way, rather than speaking on the phone. He stated that the messages very soon became flirty in nature on both sides and that in order to XXX, he had asked Ms A if she would use XXX instead of XXX, as it has a function where messages disappear once read. Dr Arunoday stated that he believed this conversation had taken place on XXX as it was while he was XXX, but that was definitely before Ms A had XXX and then went away on holiday.

54. Dr Arunoday stated that he and Ms A had liked posts of each other on XXX during this period, including Ms A liking a post about the XXX and commenting “XXX” on a post he had made XXX, following a short period when he was blocked from XXX.

55. Dr Arunoday's police statement of 18 September 2022 also states that he and Ms A became friends on XXX and eventually moved to XXX, where *"we started with the general, talking and then it led to me sending some snaps that...jokes going into the [XXX]. Sex related jokes like...like puzzles kind of thing. Very slowly and I...I got a response. So the...so all that discussing and chatting it...it led to very comfortable chatting around the subject."*

56. The Tribunal considered that both Ms A and Dr Arunoday agreed that their relationship had initially begun as a friendly professional one, but disputed when messaging had moved to XXX and the content had become overtly sexual in nature.

57. In terms of supporting evidence, whilst the Tribunal was provided screenshots of Ms A liking two posts by Dr Arunoday, the Tribunal did not consider that these proved that they were friends on XXX and, even if they were, it does not assist in determining the level of any friendship and when the exchange moved from XXX to XXX.

58. In determining which account to accept, the Tribunal also considered the witness evidence of Mr B. In his GMC witness statement, dated 24 April 2025, he states *"I recall one occasion when Ms A went on holiday with [XXX] and Dr Arunoday sent her a naked picture on Snap Chat. She said he was constantly messaging her and so she deleted an app from her phone. I think it was Snap Chat that she deleted."* [sic]

59. In his Police statement, dated 23 January 2023, he states: *"I recall [Ms A] going on holiday [XXX] and she said she had deleted an app from her phone as she had been receiving constant messages from the doctor"* [sic].

60. Although Mr B assists in providing evidence of the use of XXX and the volume of messages he does not assist in when Ms A installed XXX on her phone.

61. The Tribunal concluded that despite some inconsistencies in her evidence, the core of Ms A's allegations was consistent throughout even in the face of robust cross-examination by Ms Felix.

62. The Tribunal considered that Dr Arunoday's version of events had changed between his Police statement and his GMC witness statement, with him now describing the transition to conversations of a sexual nature as mutual and more organic than he originally did. The Tribunal has taken account of the fact that Dr Arunoday's first language is not English and the

impact that may have on his giving of evidence. However, the Tribunal was concerned that at times during his cross-examination he came across as evasive in response to a number of questions put to him.

63. Ultimately, the Tribunal concluded it was more likely than not that Dr Arunoday had asked Ms A to download XXX whilst she was away on holiday from the week commencing XXX 2021. It also concluded that Dr Arunoday had instigated discussion of sexual matters with Ms A and that his actions in doing so under the circumstances were inappropriate.

64. The Tribunal therefore found that Dr Arunoday had inappropriately sent Ms A a large quantity of messages some of which were of a sexual nature.

65. In respect of paragraph 1(a)(ii), the Tribunal was not provided with any examples of “aggressive” messages sent by Dr Arunoday or given any clear details or wording. While Ms A made it clear in her evidence that she had perceived Dr Arunoday’s messages and behaviour to be aggressive at times, the Tribunal considered that without further supporting evidence, this could only be said to amount to a subjective perception of aggression.

66. In respect of paragraph 1(a)(iii), the Tribunal noted that the evidence of Dr Arunoday was that he had not sent images of his penis to Ms A as she had alleged but rather that “*Ms A asked for a photo of my penis but I did not want to send one so I sent her a photo of my thighs without going as high as my penis.*” In her statement to the Trust Ms A’s does not refer Dr Arunoday sending her pictures but to the requests he was making for her to send him sexual pictures. However, she expands on this in her police interview.

67. The Tribunal considered that Dr Arunoday’s account that he had sent an image, but only going to his upper thighs, was not credible and that Ms A had no reason to embellish this aspect.

68. Accordingly, the Tribunal found paragraphs 1(a)(i) & (iii) proved and paragraph 1(a)(ii) not proved.

1(b)

69. Throughout her Police interview, Trust statement, GMC statement and oral evidence, Ms A stated that Dr Arunoday had initially asked her to send him video of her masturbating, and when she refused had asked if he could instead listen to her masturbating, to which she

also said no. In her GMC statement Ms A stated that Dr Arunoday had asked her if she had sex toys at home and asked her to insert something in her vagina and send him a picture, and in her Trust statement said that Dr Arunoday *“continued to message me for hours on end asking me to send him pictures or videos of a sexual nature, I kept on refusing.”*

70. Dr Arunoday’s account was that he had not asked Ms A to send him a video of her masturbating, asked her to send pictures and/or videos of a sexual nature, or asked her to insert a sex toy into her vagina and send him a picture. Dr Arunoday stated in his witness statement that he had *“asked her for photos”* and that she had sent him *“photos of herself in a partially opened shiny gown and of her naked in the bath with a glass of wine but I could not see her breasts or genitals”*. He denied that he had requested explicit images, but rather that Ms A had requested explicit images from him, stating in his Police interview that Ms A had described to him how she had multiple sex toys and allowed him to listen to her masturbating.

71. The Tribunal noted that Dr Arunoday had admitted that he had asked Ms A if she had done different sexual things, but denied that this was inappropriate.

72. The Tribunal determined that it was more likely than not that Dr Arunoday had asked Ms A to send him a video of her masturbating, asked her to send pictures and/or videos of a sexual nature, and asked her to insert a sex toy into her vagina and send him a picture.

73. In reaching its determination, the Tribunal bore in mind its findings that Dr Arunoday had instigated the sexual messaging with Ms A, which was unsolicited and escalated from friendly and professional conversation to sexually explicit statements and requests. It also considered that the messages set out at Schedule 1 formed a part of this pattern of behaviour.

74. Accordingly, the Tribunal found paragraph 1(b) of the Allegation proved.

1(c)

75. Dr Arunoday admitted that he had told Ms A that he wanted to do sexual things to her, wanted to ejaculate inside her and wanted to have sex with her, but stated that this was not inappropriate in the context of reciprocal messaging.

76. Given its findings that Dr Arunoday had inappropriately messaged Ms A and had instigated unwarranted messages of a sexual nature, the Tribunal determined that Dr Arunoday's actions in respect of paragraphs 1(c)(i), (ii) & (iii) were also inappropriate in the circumstances.

77. Dr Arunoday denied that he had told Ms A that he would just come inside her even though she said he couldn't or words to that effect or that he was watching her location on XXX.

78. In her Police statement said Ms A said *"They were messages saying that he wanted to come inside of me, that he wanted to have me all night, that kind of thing"* and that she had said that she did not want to and that she did not want to come to his room or have sex with him. In her witness statement she stated that *"He kept saying that he wanted to ejaculate inside me, and I told him this would be rape. He would then say that I was overreacting and would rant over and over about how I was disrespecting him by either not answering his questions or because I told him what he wanted to do would be rape because I had said no."*

79. In his witness statement Dr Arunoday stated that *"I did say I wanted to have sex with her and wanted to ejaculate inside her as I did want to do that. She similarly told me that she wanted to have sex with me. She never said that I could not have sex with her nor that it would be rape if I did. I never said I would just come inside her regardless."*

80. The Tribunal considered it more likely than not that Dr Arunoday had also told Ms A that he would just come inside her even though she said he couldn't or words to that effect. It found no reason why Ms A would embellish her account in this respect and considered that this matched the pattern of inappropriate, sexually orientated behaviour demonstrated by Dr Arunoday.

81. In respect of the allegation at paragraph 1(c)(v) that Dr Arunoday was watching Ms A's location on XXX, Ms A stated in her Trust statement that:

"He told me that he was watching my location on [XXX] to make sure I didn't leave the house while I was isolating. I was concerned that he knew my location and I turned it off on [XXX]. He continued to pressure me to turn it back on again until I did."

82. In his witness statement, Dr Arunoday stated that:

“[XXX] has a function which means you can see where someone is if it is turned on. I had my location turned on. I did not ‘watch’ Ms A’s location on [XXX] nor did I insist that she kept her location turned on. We did use that function when I went round to her house, see below.

...

When I was approaching her house, I remember messaging with Ms A about her using the location function on [XXX] so that she could see where I was and know how far away I was and when I was nearly there. This would have been the first time I went there. I could not turn her location on and off on [XXX]; only she could do that. I never put any pressure on her to keep her location on. I also never said I was outside her house other than the two times that I was outside, when I went round having arranged this with her in advance.”

83. As for the reasoning set out in respect of paragraph 1(c)(iv) of the Allegation, above, the Tribunal accepted Ms A’s account of these events. It considered that even by Dr Arunoday’s account of events, he had used her location to attend her home, and that this was inappropriate as it was unwarranted and non-consensual.

84. Accordingly, the Tribunal found paragraph 1(c) of the Allegation proved in its entirety.

1(d)

85. Dr Arunoday admitted that he had asked Ms A on one or more occasion to go to his on-call room for sex but denied that this was inappropriate on the basis that it was part of an ongoing and mutual interaction between himself and Ms A.

86. As for the reasoning set out in respect of paragraph 1(c) of the Allegation, set out above, the Tribunal accepted Ms A’s account of these events and found this paragraph proved.

1(e)

87. Dr Arunoday denied contacting Ms A by video call and showing her his penis, but for the reasoning set out in respect of paragraph 1(c) of the Allegation, above, the Tribunal accepted Ms A's account of these events and found this paragraph proved.

Paragraph 2

88. Dr Arunoday stated that there was mutual kissing but denied the allegation on the basis of the use of the word "*tried*".

89. The Tribunal considered that the use of the word "*tried*" did not materially change the meaning or interpretation of the allegation in respect of paragraph 2 as he had tried and was successful in kissing Ms A and therefore found it proved.

Paragraphs 3 & 4

90. Dr Arunoday denied ignoring Ms A telling him to stop while carrying out the actions at paragraph 2 of the Allegation.

91. Dr Arunoday also denied putting his hand over Ms A's mouth on that occasion, but admitted that at some other time he had done so, as during consensual sex he was worried that colleagues may hear him and Ms A having sex in the on-call room. Similarly, he admitted that at some other time he had placed his arm across Ms A's chest in the course of sexual intercourse but not in respect of paragraph 2 of the Allegation and not in the 'pejorative' way that is set out in the Allegation.

92. Dr Arunoday also accepted that he had placed his body weight on top of Ms A during the course of sexual intercourse, but not deliberately or in respect of paragraph 2 of the Allegation.

93. In reaching its determination on paragraph 3 of the Allegation, the Tribunal also considered paragraph 4(a) of the Allegation, namely whether the events that occurred with Ms A were consensual.

94. The main evidence in the case was the contradictory accounts of Ms A and Dr Arunoday, with Ms A stating that these actions were non-consensual and that Dr Arunoday had raped her, whilst Dr Arunoday stated that the sexual interactions between them were consensual and part of a mutual ongoing sexual relationship.

95. In order to determine which account was more probable, the Tribunal considered the evidence of both Ms A and Dr Arunoday, and any supporting or corroboratory evidence available to it.

96. Ms A's account of the events of XXX was that, following XXX at work, Dr Arunoday had called the ward to say that she was XXX and had then messaged her and asked her to come to his on-call room to talk to her before she left work. In her written witness statement she describes:

"The on-call room is a small room. When I went in, I could see there was a chair but it was covered, so the only place to sit down was on the bed. I recall that Dr Arunoday stood in front of me and asked if I was ok. Then he started to kiss me. I remember telling him not to, that I wasn't feeling well and needed to go home, and he said he would look after me. He was kissing me and moved me backwards and at that point I've dissociated. I cannot recall a lot of the details about what happened.

My memory of what happened is fragmented. I cannot recall the exact order of things. I recall that Dr Arunoday got up and pulled the sash window down to shut it. I believe that he closed the window so nobody could hear. I asked him to stop, and he told me to be quiet and put his hand over my mouth. He said it wasn't him, it was his 'inner lucifer'. He had his arm across my chest, his body weight was on top of me, and I was lying on my back. Dr Arunoday was a muscular guy. He was very heavy, and I could not move when he was on top of me. I felt pressure on my chest, and I already couldn't breathe. I couldn't move from where I was. He had removed his glasses and his facial expression was very angry. Those bits of memories are really clear. Having since had EMDR therapy, I can rationalise things now – I know now that in that moment I was in freeze mode. Dr Arunoday continued until he had ejaculated."

97. Dr Arunoday's version of events was that he and Ms A had sex in his on-call room on XXX and XXX 2021. He stated in oral evidence that he could not be sure that when Ms A attended the on-call room, XXX, whether this was the first or second occasion they had sex that day. His witness statement describes:

"When Ms A came to the on call room in the chat beforehand we had discussed what she was wearing, she has mentioned she did not have underpants on, she also texted as to if she has reached and she is walking towards the room and I would leave the

door unlocked for her. I did think we might have sex as I had understood from my conversations with her that she was going to come to the on call room to see me there for that reason. I was keen to have sex with her as I found Ms A very attractive and I was excited by the idea but I did not put any pressure on her to do so beforehand nor did I put any pressure on her to have sex when she then came to meet me there as we had arranged. I was not sure how it was going to be the first time, when she first arrived, but when she came in the room Ms A undressed herself and lay on the bed. She never told me to stop during sex. Had she said at any time she did not want to have sex I would not have had sex with her or if she had said anything to indicate she did not want to carry on I would have stopped.

I accept that I did put my hand over Ms A's mouth momentarily at one point during sex. This was not done aggressively; it was simply to indicate to her that she needed to muffle her voice as she was making loud sounds of pleasure while we were making sex. I was really worried someone passing by in the corridor might overhear her. At the same time I whispered her name, warning her she was being too loud. I was not surprised though as we had talked previously about the fact that making noise during sex excited us both. I remember when we had sex at her house later on (see below) she commented that I seemed much more relaxed than I had in the on call room and that she liked being able to make as much noise as she wanted.

I cannot remember if my arm lay across her chest at any point when we had sex; it well may have done but if so, this was not to pin her down. My body weight would have been on top of her when we were having sex with her underneath me but I deny that I sought to hold her down with my body, if that is what is being suggested, or that I did anything of this sort, or anything at all, Ms A without her consent or without believing she was consenting. Ms A appeared to me to be willing and to be engaging with me and enjoying herself. We both tried, willingly, different sexual acts as we chatted before.”

98. Dr Arunoday acknowledged referring to his “inner Lucifer” and said that this was a reference to his guilt and the moral dilemma he found himself in. He considered himself to be XXX.

99. The Tribunal considered that whilst there were some aspects of both Ms A's and Dr Arunoday's accounts that were not present within their Police interviews/statements, which were contained within their written witness statements, this did not significantly undermine

either's account. The Police interviews/statements were of a different format to those of their written witness statements and were led by the questions asked by the Police, with the absence of some aspects or details that were not touched upon.

100. The Tribunal accepted that there were some minor inconsistencies within Ms A's accounts, given to the Trust, the Police and then the GMC. However, these inconsistencies were relatively minor and the thrust of her evidence remained consistent throughout those accounts and her oral evidence.

101. Similarly, there were some minor inconsistencies in Dr Arunoday's accounts, but his position remained consistent that these exchanges were mutual and that at no time did Ms A object or indicate that she did not consent.

102. The Tribunal went on to consider any evidence before it which supported or gave more credibility to one version of events over another.

103. The Tribunal heard evidence from both Mr B, Ms A's ex-partner and Mr D, XXX at the Trust.

104. Mr B had been in contact with Ms A around the time of the alleged events and had also gone to stay with her. He had been present when Ms A was receiving a lot of messages and she had explained that it was a colleague at work (Dr Arunoday) and described the nature of the messaging to him. Mr B described how in XXX 2021, having asked Ms A why she was so stressed, Ms A had told him that she had been raped by Dr Arunoday. Mr B's GMC witness statement states:

"On the Friday evening, got a call from a mental health service which I believe work had recommended or had put her in contact with. I was present when she got the call, and when she came off the call she was very upset.

...

Ms A was not herself for the rest of the weekend and on the Sunday, I asked her what was going on. She told me that what she had reported in August was that she'd been raped. told me that the night it had occurred Dr Arunoday had called to the Doctors on-call room, had gone because she felt something was up."

105. The evidence of Mr D was that in the XXX of 2021, Ms A had spoken to him about some concerns, that she had turned up to work quite upset and said she was having problems with one of the consultants. She told Mr D that she was being contacted at home and she had asked him to stop but he was continuing to contact her. Mr D asked Ms C to join the conversation and Ms A said that she did not wish to make a formal complaint. In March 2022 Mr D got a telephone call from Ms A and she told him that she had been sexually assaulted (raped) by Dr Arunoday a few months before and that she had already disclosed this to Ms C. Ms A told Mr D that she was on a XXX shift and Dr Arunoday was the consultant on-call, that she had gone to his on-call room to have a conversation with him and that's when the alleged rape had occurred.

106. The Tribunal also considered the evidence of Ms C. Whilst Ms C did not give oral evidence at the hearing and her witness statement was admitted as hearsay evidence, it set out how Ms A had initially raised concerns with her and Mr D about receiving unwanted messages from Dr Arunoday on XXX 2021. Ms C's statement goes on to explain how Ms A described to her on XXX 2021 how she was raped by Dr Arunoday in his on-call room.

107. Ms A's evidence was that she had also discussed the messaging by Dr Arunoday with another colleague, Dr E, but the Tribunal was not provided any supporting or documentary evidence of this.

108. The Tribunal considered that Ms A had told a number of people at the time that Dr Arunoday's messages were causing her distress and these witnesses had described observing that she was distressed and upset at the time. The Tribunal concluded that this added significant weight to the account of Ms A and her reliability as a witness.

109. The Tribunal was of the opinion that Ms A's account of how she felt pressured to respond to Dr Arunoday's messages was credible, as he was a Consultant and would message about both professional and personal matters. The Tribunal also considered that Ms A's incomplete memory of the specifics of the sexual assault was not inconsistent with how a victim may respond in the circumstances.

110. In her witness statement she stated: *"I felt controlled and manipulated and didn't know how to make it stop. I told Dr Arunoday over several conversations that I didn't want to do any of this."*

111. The Tribunal also took into account that whilst Ms A did not report the incident to the Police until 2022, in 2021 she was of the opinion that she would not be believed or anything would come of it. On returning to work XXX, she encountered Dr Arunoday again. She reported to Ms C her concerns about having to work alongside Dr Arunoday again and as Ms C offered limited support, she decided to escalate matters.

112. The Tribunal considered that Ms A's account of events was therefore more credible and likely than those described by Dr Arunoday. It was submitted on behalf of Dr Arunoday that him stating to the Police that he had had sex with Ms A multiple times added credibility to his account as there would be no benefit to him of including this detail or making it up were it not true. However, the Tribunal considered that Dr Arunoday's account of events, including this detail, sought to paint a picture of an ongoing and reciprocal sexual relationship rather than one where he instigated personal messaging with Ms A, escalated to persistent sexual messaging and communications, and then sexually assaulted her.

113. The Tribunal determined that Ms A's account was more credible and it was more likely than not that Dr Arunoday had carried out the actions at paragraph 3 of the Allegation without her consent.

114. On this basis of its findings, the Tribunal applied the relevant test and determined Dr Arunoday could not have genuinely held a reasonable belief that Ms A had consented.

115. Accordingly, the Tribunal found paragraphs 3 and 4 of the Allegation proved in their entirety.

Paragraphs 5 & 6

116. Ms A's account of events was as set out in her GMC witness statement:

"During the week commencing [XXX], Dr Arunoday turned up at my home. I'm not sure of the exact date. I wasn't expecting him, so I was surprised to see him.

...

Dr Arunoday calmed down and sat down next to me on my sofa. He started to kiss me and I said 'no'. He started to complain about my living room not having curtains. In my statement to the Trust, I wrote that he started to touch me sexually. By this I meant

that he was touching my breasts over my clothes. He talked about going to my room and he led me upstairs. I can't say I fought against it, because I didn't, because I felt terrified.

Dr Arunoday pushed me down by my shoulders onto the bed. I told him that I didn't want to do this, but he told me not to make him stop. He said it wasn't him, it was his 'inner lucifer'. I recall that he complained about my bedcovers, and moved them and then I tried to move away from him, but he pinned me in an awkward position and he was on top of me. I can't remember if I am undressed at this stage or how he undressed me. I recall that at one point I was lying on my side and then he moved me onto my front. Dr Arunoday anally raped me when I was lying on my front and then he turned me over and vaginally raped me

117. Dr Arunoday's account of events was as set out in his witness statement:

"[XXX]

I know that the first time was on the afternoon of [XXX] because I remember that I did a clinic in the morning and I had the afternoon free which is how I was able to go round to her house. I remember that I then did a locum shift that evening.

...

When I went to her house I took Ms A a bottle of wine as a present.

...

I cannot remember now exactly how it started but the atmosphere became more intimate as we were talking and we were looking into each other's eyes and we then starting kissing. We were still on the sofa at this point. I remember we joked about whether I could carry her up the stairs. Ms A then suggested we go upstairs which we did. She showed me round. I do not remember going into [XXX] room. She showed me the bathroom and her room last, and I remember she had loads of pillows and cushions on her bed, arranged neatly. I said how nice it looked. She made a joke about needing lots of pillows. There was a mat near the bed with dumb-bells on it and I asked her if she worked out and she said yes. We then started undressing each other."

[XXX]

The second time I went round to her house and we had sex was on the morning of [XXX]. I had a day off that day. We had arranged that I would go round there and Ms A had said she would have to [XXX]. I had told [XXX] that I had to go to work in order that I had an excuse to leave the house. This meant I had to leave earlier than I needed to, at around 07.30. I had nowhere else to go so I first went to Sainsbury's [XXX] where I bought a bottle of wine.

After so long it is difficult now to distinguish between what we did together on each of the two occasions at her house but both times Ms A and I kissed and I touched her breasts and had vaginal sex with her. We did not have anal sex in her home (see above). We also had a shower together during which she knelt in front of me and sucked my penis, on one of the two occasions; I think it was the first time I went round but I am not sure about this now. It was her idea not mine. We also had sex in the shower on the same occasion, standing up. Ms A did not tell me to stop at any point. If I held her shoulders I cannot now remember but I did not push her or do so roughly and it would have been during sex when we were changing positions. Sometimes I led what we were doing in bed and sometimes she led. I did not pin her down on the bed. At some stage I would have been above her body with her lying on her back. We moved about on the bed and had sex in various positions."

118. The Tribunal considered that Ms A's account of events as set out in her GMC witness statement was largely consistent with her Trust statement and Police statement.

119. The Tribunal also considered the witness statement of Ms C, which describes a meeting of XXX as follows:

"The conversation then moved to her home as she told me that one evening he turned up at her home address. I asked her if she had shared her address and she said no. I asked her if she wanted to take this further and she said no, that she felt better getting it off her chest. I said everything was in confidence and asked her to think about whether she wanted to disclose it and that I would support her

On [XXX], I spoke to and told her I would have to disclose it, and she was furious with me.

She told me she didn't want to go to the police as cases like this often fail prosecution. I suggested to her that if these allegations were correct, there was a duty for her to go to the police. I also advised her that Saint Mary's sexual assault referral centre could offer her support. She was extremely fragile – visibly shaking and in a distressed state. [XXX]."

120. As for paragraphs 3 and 4 of the Allegation, the Tribunal considered that there was corroboratory evidence supporting Ms A's version of events.

121. The Tribunal was provided with receipts from Dr Arunoday showing that he had spent £13 at Tesco on XXX 2021 and £12 at Sainsburys on XXX 2021. However, it considered that these did not demonstrate that this had been spent on wine, as stated by Dr Arunoday, or that this was evidence which supported his version of events.

122. The Tribunal determined that in light of the corroboratory evidence, Ms A's account of events was more credible. As for paragraphs 3 and 4 of the Allegation, it was submitted on behalf of Dr Arunoday that him stating that he had been to Ms A's house more than once added to the credibility of his account and that there would be no benefit to him to making such an admission were it not true. However, the Tribunal considered that this would be of benefit to him as it would support his version of events that this was a mutual ongoing sexual relationship.

123. Accordingly, the Tribunal found paragraphs 5 and 6 of the Allegation proved in their entirety.

Paragraph 7

124. The Tribunal determined that, on the balance of probabilities, Ms A's account was more credible and that Dr Arunoday had carried out the actions at paragraph 5 and 6 of the Allegation without her consent.

125. On this basis of its findings, the Tribunal applied the relevant test and determined Dr Arunoday could not have genuinely held a reasonable belief that Ms A had consented.

126. Accordingly, the Tribunal found paragraph 7 of the Allegation proved.

Paragraph 8

127. Ms A's Trust statement sets out her account, which is reiterated in more general terms in her GMC witness statement.

128. Whilst there was no additional corroboratory evidence as for other paragraphs of the Allegation, the Tribunal considered that Ms A's account was credible and that the alleged behaviour matched the pattern it had found proved in respect of other paragraphs.

129. The Tribunal concluded that Ms A's evidence was consistent and that there was no reason that she would embellish this aspect, or to doubt her Trust statement.

130. Accordingly, the Tribunal found paragraph 8 of the Allegation proved.

Paragraph 9

131. Applying the test set out in Section 26 (4) of the Equality Act 2010, set out above, the Tribunal determined that Dr Arunoday's actions constituted sexual harassment as defined in Section 26(2) of the Equality Act 2010, in that he 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 Ms A.

132. The Tribunal determined that Dr Arunoday's actions were clearly sexually motivated, in both pursuit of a sexual relationship and sexual gratification.

133. The Tribunal concluded that Dr Arunoday set out to pursue a sexual relationship with Ms A using work-related premises and by exploiting his seniority, playing on Ms A's vulnerabilities and instigating sexual communications and interactions. It determined that Dr Arunoday's course of conduct and the way that he carried it out was an abuse of his more senior position.

134. Accordingly, the Tribunal found paragraph 9 of the Allegation proved in its entirety.

The Tribunal's Overall Determination on the Facts

135. The Tribunal has determined the facts as follows:

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

1. On one or more occasion between XXX 2021 and XXX 2021, whilst working as a Consultant at the Northern Care Alliance NHS Foundation Trust ('the Trust'), you behaved inappropriately towards Ms A, in that you:

a. sent Ms A a large quantity of messages some of which were:

i. of a sexual nature;

Determined and found proved

ii, aggressive;

Not proved

iii. contained images of your penis.

Determined and found proved

b. asked Ms A inappropriate questions as set out in Schedule 1;

Determined and found proved

c. told Ms A that you:

i. wanted to do sexual things to her;

Determined and found proved

ii. wanted to ejaculate inside her;

Determined and found proved

iii. wanted to have sex with her;

Determined and found proved

iv. that you would just come inside her even though she said you couldn't or words to that effect;

Determined and found proved

v. were watching her location on [XXX];

Determined and found proved

d. asked Ms A on one or more occasion to go to your on-call room for sex;

Determined and found proved

e. contacted Ms A by video call and showed her your penis.

Determined and found proved

2. On XXX 2021, in an on-call room at the Trust, you:

a. tried to kiss Ms A;

Determined and found proved

~~b. penetrated Ms A's vagina with your penis;~~

Amended under Rule 17(6)

c. had penile / vaginal sexual intercourse with Ms A.

Amended under Rule 17(6), Admitted and found proved

3. Whilst carrying out the actions described at paragraph 2 you:

a. ignored Ms A telling you to stop;

Determined and found proved

b. put your hand over Ms A's mouth;

Determined and found proved

c. placed your arm across Ms A's chest;

Determined and found proved

d. placed your body weight on top of Ms A.

Determined and found proved

4. Your actions as described at paragraph 2 and 3b, 3c and 3d were undertaken without:

a. Ms A's consent;

Determined and found proved

b. reasonable belief that Ms A was consenting to those actions.

Determined and found proved

5. On a date on or around XXX 2021, you:

a. turned up at Ms A's home address uninvited;

Determined and found proved

b. tried to kiss Ms A;

Determined and found proved

c. touched Ms A on the breasts;

Determined and found proved

d. ~~used~~ engaged in sexual activity involving the use of your penis to
penetrate Ms A's: Amended under Rule 17(6)

i. vagina;

Determined and found proved

ii. anus;

Determined and found proved

iii. mouth;

Determined and found proved

~~e. had sexual intercourse with Ms A.~~

Amended under Rule 17(6)

6. Whilst carrying out the actions described at paragraph 5, you:

a. ignored Ms A telling you to stop;

Determined and found proved

b. pushed Ms A down by her shoulders on to the bed;

Determined and found proved

- c. pinned Ms A on the bed.

Determined and found proved

- 7. Your actions as described at paragraph 5 and 6b and 6c were undertaken without:

- a. Ms A's consent;

Determined and found proved

- b. reasonable belief that Ms A was consenting to those actions.

Determined and found proved

- 8. On one or more occasion on or around XXX 2021 whilst working XXX with Ms A, you:

- a. asked Ms A if she wanted to have sex with you;

Determined and found proved

- b. asked if you could kiss Ms A;

Determined and found proved

- c. put your hand on Ms A's leg;

Determined and found proved

- d. stroked Ms A on the hand.

Determined and found proved

- 9. Your actions as described at paragraphs 1, 2, 3, 5, 6 and 8:

- a. 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 Ms A;

Determined and found proved

b. were sexually motivated;

Determined and found proved

c. were an abuse of your more senior position.

Determined and found proved

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

To be determined

Determination on Impairment - 21/11/2025

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 as set out before, Dr Arunoday's fitness to practise is impaired by reason of misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

Submissions

On behalf of the GMC

3. On behalf of the GMC, Mr Dyer, counsel, submitted that it is self-evident that the findings amount to serious misconduct, there being two incidents of rape. He submitted that this was a course of conduct occurring over multiple months and involving abuse of a senior position and the targeting of Ms A. He submitted that it took place on hospital premises and at Ms A's home.

4. Mr Dyer submitted that the Tribunal would have regard to the fact that these matters did occur some years ago, but that they are exceptionally serious. He submitted that remediation of sexual misconduct is inevitably particularly difficult and that in this case there is a complete denial, clearly no insight or reflection and, in fact, some evidence of 'victim blaming' or seeking to undermine the complainant in this case.

5. Mr Dyer submitted that in all these circumstances, Dr Arunoday's fitness to practise is clearly currently impaired, that any member of the public would expect there to be such a finding, and that all three limbs of the overarching objective would be undermined were a finding of impairment not made.

On behalf of Dr Arunoday

6. On behalf of Dr Arunoday, Ms Felix, KC, submitted that Dr Arunoday does not accept the Tribunal's determination, and that given the Tribunal's findings she had no submissions to make on misconduct or impairment.

The Relevant Legal Principles

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

8. 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 that the misconduct was serious, and then whether the finding of that misconduct which was serious could lead to a finding of impairment.

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

10. The Tribunal must bear in mind the statutory overarching objective as set out in s1 Medical Act 1983 namely 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.

11. The LQC reminded the Tribunal that whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011]*

EWHC 297 Admin. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

- a. 'Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. Has in the past and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The Tribunal's Determination on Impairment

Misconduct

12. In considering whether Dr Arunoday's actions amounted to misconduct, the Tribunal had regard to *Good Medical Practice (2013)* ('GMP'). It determined that the following paragraphs were applicable in this case:

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

36 You must treat colleagues fairly and with respect.

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

13. The Tribunal concluded that Dr Arunoday's actions breached these paragraphs of GMP and that his actions clearly fell seriously below the standards expected.

14. The Tribunal has concluded that Dr Arunoday's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

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

Impairment

16. The Tribunal was of the opinion that sexual misconduct is particularly difficult to remediate.

17. The Tribunal considered that it had not been provided with any evidence of insight or remediation on the part of Dr Arunoday, who maintained his denial and did not accept the factual findings of the Tribunal.

18. Given that it had been provided no evidence of insight or remediation the Tribunal was unable to make a judgement as to the exact risk of repetition, but in light of this absence and its finding that serious sexual misconduct is particularly difficult to remediate, determined that there was a risk of repetition.

19. The Tribunal considered that whilst Dr Arunoday's actions occurred some period of time ago, given the seriousness of this misconduct, the passing of time was not relevant in its assessment of current impairment.

20. The Tribunal concluded that limbs (b) and (c) of *Grant* were applicable in this case, namely that Dr Arunoday has in the past and is liable in the future to bring the medical profession into disrepute; and has in the past breached and is liable in the future to breach one of the fundamental tenets of the medical profession.

21. The Tribunal concluded that in light of its findings all three limbs of the overarching objective would be undermined were a finding of impairment not made.

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

Determination on Sanction - 21/11/2025

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

The Evidence

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

Submissions

On behalf of the GMC

3. On behalf of the GMC, Mr Dyer, counsel, submitted that the appropriate and proportionate sanction in this case was that of erasure.

4. Mr Dyer submitted that this clearly was not an exceptional case which would warrant taking no action and that conditions were not appropriate in the circumstances.

5. Mr Dyer submitted that the factors set out within the Sanctions Guidance (February 2024) ('SG') which indicate that a period of suspension may be the appropriate sanction were not applicable in this case. He submitted that the Tribunal had found sexual misconduct, that there was predatory behaviour and an abuse of a senior position, and that this was not an isolated incident. He submitted that there had also been serious harm caused to Ms A and a degree of victim blaming.

6. Mr Dyer submitted that Dr Arunoday's actions and the applicable paragraphs of the SG indicated that erasure was the appropriate sanction and was necessary to uphold all aspects of the statutory overarching objective.

7. Mr Dyer also referred the Tribunal to the case of *Foy Yamah v GMC [2025] EWHC 2846 (Admin)* where Mr Justice Ritchie underlined the importance of looking at evidence to determine future risk. He submitted that in that case the court considered there had been a failure to take account fully of the seriousness of the conduct, lack of insight and lack of remediation.

On behalf of Dr Arunoday

8. On behalf of Dr Arunoday, Ms Felix, KC, informed the Tribunal that she did not have any submissions to make in respect of sanction.

The Tribunal's Determination on Sanction

9. The Tribunal's decision as to the appropriate sanction to impose on Dr Arunoday's registration, if any, is a matter for the Tribunal exercising its independent judgment. In reaching its decision, the Tribunal has taken account of the SG and the overarching objective.

10. The Tribunal had regard to the principle of proportionality, and weighed Dr Arunoday's interests with those of the public. Throughout its deliberations the Tribunal bore in mind that the purpose of a sanction is not to punish doctors, although a sanction may have a punitive effect. It also took into account the overarching objective which is to protect the health, safety, and wellbeing of the public, maintain public confidence in the profession, and promote and maintain proper professional standards and conduct for the members of the profession.

11. The Tribunal has also borne in mind that in deciding what sanction, if any, to impose, it should consider all of the sanctions available, starting with the least restrictive and then consider each sanction in ascending order.

Aggravating & Mitigating Factors

12. In reaching its decision, the Tribunal first considered the aggravating and mitigating factors present in this case.

13. It considered the following to be aggravating factors:

- Dr Arunoday's lack of insight;
- The case involved sexual misconduct including predatory behaviour, an abuse of Dr Arunoday's senior position, where he raped Ms A in their workplace and at her home;
- The Tribunal found that Dr Arunoday's actions constituted sexual harassment under the Equality Act;
- Dr Arunoday's actions caused some harm to Ms A and victim blaming;
- His actions were not an isolated incident but involved a course of conduct over a period of time.

14. The Tribunal considered the following features to be mitigating factors:

- The lapse of time since the incident occurred, with no evidence of repetition since;
- There were no prior fitness to practise concerns.

15. The Tribunal did consider whether Dr Arunoday's admissions to some aspects of the Allegation amounted to a mitigating factor. However, it determined that they did not as Dr Arunoday did not admit to the inappropriate or non-consensual allegations and his admissions in no way impacted Ms A having to attend and give evidence on every matter.

No action

16. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to take no action.

17. The Tribunal considered that there were no exceptional circumstances in this case which could justify it taking no action.

18. Given the serious findings against Dr Arunoday, the Tribunal determined that to take no action would be neither appropriate nor proportionate and would fail to uphold the overarching objective.

Conditions

19. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Arunoday's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable, and measurable.

20. The Tribunal concluded that Dr Arunoday's misconduct was so serious that imposing conditions would fail to send the right signal to the public and members of the medical profession that such behaviour is wholly inappropriate and unacceptable.

21. The Tribunal therefore determined that conditions would be neither proportionate nor workable in the circumstances of this case and, given the serious nature of its findings, would fail to uphold the overarching objective or maintain public confidence in the profession.

Suspension

22. The Tribunal then went on to consider whether to impose a period of suspension on Dr Arunoday's registration. In doing so it considered the relevant paragraphs of the SG, as set out below.

92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).

23. The Tribunal concluded that paragraph 92 of the SG was not applicable as Dr Arunoday's actions were so serious as to be fundamentally incompatible with continued registration.

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

24. The Tribunal also concluded that paragraph 93 of the SG was not applicable as there was no acknowledgement of fault by Dr Arunoday, no evidence of insight or mitigation and given it had determined at the impairment stage that a risk of repetition remained.

25. The Tribunal also considered paragraph 97 of the SG:

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

a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.

...

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

f No evidence of repetition of similar behaviour since incident.

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

26. The Tribunal concluded that only sub-paragraph 97(f) was applicable. It determined that in light of the circumstances of the case and the relevant paragraphs of the SG, suspension would be insufficient to reflect the seriousness of its findings or uphold the statutory overarching objective.

Erasure

27. The Tribunal then went on to consider whether to erase Dr Arunoday's name from the Medical Register. In doing so, it bore in mind paragraph 109 of the SG, which states:

109 *Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*

a A particularly serious departure from the principles set out in Good medical practice where the behaviour is difficult to remediate.

...

c Doing serious harm to others (patients or otherwise), either deliberately or through incompetence and particularly where there is a continuing risk to patients.

d Abuse of position/trust.

...

f Offences of a sexual nature, including involvement in child sex abuse materials.

...

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

28. The Tribunal considered that all the above factors in relation to paragraph 109 of the SG were applicable, and that paragraphs 138(b) and 148, as set out below, were also applicable.

138 More serious outcomes are likely to be appropriate if there are serious findings that involve:

...

b sexual harassment

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

29. The Tribunal concluded that in all the circumstances, including its earlier findings, the aggravating factors and the applicable paragraphs of the SG, erasure was the only appropriate and proportionate sanction in this case. It concluded that any lesser sanction would fail to uphold the overarching objective or protect the public interest.

30. The Tribunal therefore determined to erase Dr Arunoday's name from the Medical Register.

Determination on Immediate Order - 21/11/2025

1. Having determined that Dr Arunoday's name be erased from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Arunoday's registration should be subject to an immediate order.

Submissions

On behalf of the GMC

2. On behalf of the GMC, Mr Dyer, counsel, submitted that there should be an immediate order of suspension given the seriousness of the Tribunal's findings.
3. Mr Dyer submitted that an immediate order was necessary in order to protect members of the public and was in the public interest.

On behalf of Dr Arunoday

4. On behalf of Dr Arunoday, Ms Felix, KC, informed the Tribunal that she did not have any submissions to make in respect of an immediate order.

The Tribunal's Determination

5. The Tribunal has taken account of the relevant paragraphs of the SG, in particular paragraphs 172, 173 and 178 as set out below:

***172** The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*

***173** An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.*

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.

6. In reaching its determination, the Tribunal considered the submissions made on behalf of the GMC and the relevant paragraphs of the SG.
7. The Tribunal determined that in light of the seriousness of its findings and the nature of Dr Arunoday's misconduct, an immediate order was both necessary to protect members of the public and was in the public interest.
8. This means that Dr Arunoday's registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.
9. The interim order is hereby revoked.
10. That concludes this case.

ANNEX A – 21/11/2025

Application to admit further evidence

1. At the outset of proceedings Mr Dyer, counsel, made an application on behalf of the GMC, pursuant to Rule 34(1) of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules), to admit further evidence. This evidence was a video of Ms A's ABE (Achieving Best Evidence) police interview on 16 September 2022.

Submissions

On behalf of the GMC

2. On behalf of the GMC, Mr Dyer submitted that the GMC sought to admit the video because it was the best evidence as it was taken by trained police officers, and that it is more contemporaneous than Ms A's written statement. He submitted that given the nature of this case, the Tribunal would have to consider the credibility of the witness and that the video would allow the Tribunal to assess Ms A's demeanour.

3. Mr Dyer submitted that due to the sexual nature of the allegations, Ms A is classed as a vulnerable witness and that there are provisions within the Rules which provide the Tribunal with the option of allowing pre-recorded evidence as evidence in chief, as set out at Rule 36(3):

36.

...

(3) Measures adopted by the Committee or Tribunal may include, but shall not be limited to-

(a) use of video links;

(b) use of pre-recorded evidence as the evidence-in-chief of a witness, provided always that such witness is available at the hearing for cross-examination and questioning by the Committee or Tribunal;

4. Mr Dyer submitted that he conceded that this was a late application but that the Tribunal should consider what is just and what is fair in the circumstances. He submitted that there would be no prejudice in allowing the application and that it is good evidence which the Tribunal can consider.

On behalf of Dr Arunoday

5. Ms Alexandra Felix, KC, submitted that it was not her experience that ABE interviews are commonly played at Medical Practitioners Tribunals (MPTs). She submitted that in criminal proceedings an ABE interview is the equivalent of live evidence and that if the GMC wanted to call oral evidence in chief there is a process for that, referring the Tribunal to Rules 34(9) and 34(11) and of the Rules, which state:

34.

...

(9) In relation to proceedings before the Committee or a Medical Practitioners Tribunal, unless otherwise agreed between the parties or directed by a Case Manager, each party shall not less than 28 days before the date of a hearing-

(a) provide to the other party a list of every document which he proposes to introduce as evidence; and

(b) provide to the other party a copy of every document listed in paragraph (a) which the other party has not previously received.

(c) ...

...

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

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

6. Ms Felix also referred the Tribunal to the guidance set out in *Receiving witness evidence at Medical Practitioners Tribunal hearings: Guidance for Decision Makers, Parties and Representatives*, particularly paragraph 60 which states:

60. Where a party intends for a witness to give oral evidence in chief at the hearing, that witness' written statement must not be included in the hearing bundle. It would be unfair and would involve unnecessary duplication for the tribunal to both receive a written witness statement and oral evidence on the same matters.

7. Ms Felix submitted that the GMC has admitted Ms A's witness statement as her evidence in chief, which will be tested under cross-examination, and a written transcript of the ABE interview, and that it would not be proper to now seek to also admit oral evidence in the form of the ABE video.

8. Ms Felix submitted that she only became aware of the intention to play the video to the Tribunal on 4 November when she received a note of a meeting between GMC Legal and the complainant. She submitted that the ABE was taken over XXX after the alleged events so is not contemporaneous and that Dr Arunoday was interviewed by the police under caution but it is not clear whether there is a video recording of this or not, and nobody has sought to obtain this.

Legal Advice

9. The Tribunal reminded itself of Rule 34(1) of the Rules which states that:

'34(1) The Committee or a Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.'

The Tribunal's Decision

10. In reaching its decision, the Tribunal noted that the ABE interview was taken over 12 months after the alleged events and so was not truly contemporaneous. It considered that the interview took place in a police station and that the circumstances could have potentially impacted the way Ms A gave her evidence.
11. The Tribunal considered that it would be able to assess Ms A's demeanour during her oral evidence and cross-examination and that it had a transcript of the ABE interview. It concluded that receiving the ABE video recording would not give better evidence.
12. The Tribunal took into account that the relevant guidance does set out the process for admitting oral evidence and flags the potential risks of admitting oral and written evidence on the same matters. It also took into account that this application was being made by the GMC after the hearing had commenced.
13. The Tribunal also noted that it was unclear whether there was a video of Dr Arunoday's evidence to police and that the redactions made to the video in order to match the transcript had yet to be checked by Dr Arunoday's representatives.
14. The Tribunal determined that the ABE video would not provide it better evidence and that it would be appropriate to consider the case on the current evidence available.
15. Accordingly, the Tribunal refused the GMC's application.

ANNEX B – 21/11/2025

Application to direct the disclosure of documents

1. At the outset of proceedings Ms Felix, KC, made an application on behalf of Dr Arunoday, pursuant to Rule 16 of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules), for the disclosure of documents by the GMC. This related to a Rule 28 application made by the GMC to a Case Examiner to withdraw the Allegation.
2. Rule 16 states:

(6) Directions issued by the Case Manager may include, but are not limited to, such of the following as he considers appropriate having regard to the nature of the allegation, any representations made by the parties and all other material factors-

(a) that each party disclose to the other in advance of the hearing—

- (i) any documentary evidence in their possession or power relating to the allegation,*
- (ii) details of the witnesses (including the practitioner but not experts) on whom they intend to rely and signed witness statements setting out the substance of their evidence,*
- (iii) a curriculum vitae of any expert on whom they intend to rely, together with a written report setting out the substance of that expert's evidence, and*
- (iv) skeleton arguments;*

Submissions

On behalf of Dr Arunoday

3. Ms Alexandra Felix, KC, submitted that on 23 October 2025 the defence was notified that the GMC, having seen the defence disclosure, was in the process of making an application to withdraw all allegations. She submitted that it was understood to be on the basis that the view had been reached that the test of a realist prospect was no longer met, and that she had been invited to make any comments in relation to the proposed application as soon as possible.

4. Ms Felix submitted that those instructing her made the observation that without sight of the GMC application they had not been in a position to comment on the application. She submitted that on 31 October she had been informed that the Case Examiner had requested that further inquiries be made with Ms A before a decision could be reached, that a meeting had been arranged and notes of the meeting would be provided to the defence.

5. Ms Felix submitted that she was concerned that the defence had not been able to make any representations because they had not been given any details of the basis of the application, and also that they did not know in advance that a meeting was taking place with Ms A and so they could not make any observations on that. She submitted that the defence

received a note of the meeting and were asked for any comments based on that note, but that it referred to a discussion with Ms A about what the procedure was that was to take place and so again they were not in a position to comment on the application.

6. Ms Felix submitted the Rule 28 application by the GMC ought to be disclosed because the GMC Registrar must have come to the view that it is capable of undermining the GMC's case as they had made a Rule 28 application to withdraw the matter.

On behalf of the GMC

7. On behalf of the GMC, Mr Dyer submitted that the Rule 28 application would not be admissible to the Tribunal. He submitted that the Case Examiner set out very clearly and at length the test applied within the decision letter provided to the defence and that the meeting with Ms A had been set up prior to the Case Examiner making a decision and that the Case Examiner had asked for the decision to be delayed until after Ms A had been spoken to.

8. Mr Dyer submitted that the defence had an understanding from the reasons that have been given and were asked to comment on the process. He submitted that they were seeking disclosure of internal documents and that the GMC position was that they are privileged. He submitted that there was nothing within those documents which would impact the issues to be determined by the Tribunal.

The Tribunal's Decision

9. The Tribunal considered that the test to apply was whether the documentation could undermine the GMC's case or assist Dr Arunoday.

10. The Tribunal concluded that an application to withdraw the case and the underlying reasons for that may be material that could undermine the GMC's case or assist Dr Arunoday. It considered that the defence had been asked to comment on the application without sight of it.

11. The Tribunal determined that the material was potentially relevant and that in the interests of fairness it should be disclosed.

ANNEX C – 21/11/2025

Application to adjourn

1. On 11 November 2025, Ms Felix, counsel, made an application on behalf of Dr Arunoday, pursuant to Rule 29 of the General Medical Council's (Fitness to Practise) Rules 2004 (the Rules), to adjourn proceedings.
2. This application was made following the provision of the GMC's Rule 28 application, made prior to this hearing, to Dr Arunoday's legal representatives. This was provided following a determination on disclosure made by the Tribunal on 10 November 2025, as set out at Annex B.

Submissions

On behalf of Dr Arunoday

3. Ms Alexandra Felix, KC, submitted that following disclosure of the GMC's Rule 28 application, she was of the view that the application of the test means that the GMC application remains extant. She submitted that she therefore wished for draft submissions to be placed before the Registrar to consider or to determine.
4. Ms Felix submitted that the case must go back for proper consideration given the circumstances, where the details of the application were only disclosed the previous day and she had not previously had an opportunity to properly respond.
5. Ms Felix submitted that the hearing had not yet commenced, referring the Tribunal to Rule 17(2) of the Rules, which states:

17.

...

(2) The order of proceedings at the hearing before a Medical Practitioners Tribunal shall be as follows—

(a) the Medical Practitioners Tribunal shall hear and determine any preliminary legal arguments;

(b) the Chair of the Medical Practitioners Tribunal shall—

- (i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number,*
- (ii) where the practitioner is not present, require the representative for the GMC to confirm the practitioner's name and GMC Reference Number;*

...

6. Ms Felix submitted that the proceedings commence once the practitioners name and GMC Reference Number have been confirmed and the Tribunal is seized of the material issues of the case, and that the commencement of a preliminary hearing is distinguishable from a case management hearing and is not the same as the commencement of a substantive hearing. She submitted that the commencement of a hearing under Rule 28 is a reference to the actual substantive hearing having commenced, and that had not yet happened.

7. Ms Felix submitted that the Tribunal should therefore allow her time to make her submissions on the extant Rule 28 application, and for the Registrar to consider those submissions and respond before proceeding.

On behalf of the GMC

8. On behalf of the GMC, Mr Dyer submitted that the Rules allow for the Registrar to refer the case to a Case Examiner under Rule 28 and that can be done after the case has been referred to the Tribunal, but must be before the “opening of the hearing”. He submitted that Rule 17(2) says that the “the order of proceedings at the hearing shall be as follows”, that the following provision (sub-paragraph 2(a)) deals with preliminary matters of law. and that it is clear therefore that the hearing in this case had opened (as opposed to the “opening of the case by the GMC” which occurs in the procedure at sub-paragraph (2)(f)).

9. Mr Dyer submitted that there is therefore no discretion to refer to the Registrar at this stage which accords with common sense, as it cannot have been envisaged that a

hearing would be adjourned on the first day for a Rule 28 application, when a properly convened Tribunal is ready to hear the case on its merits.

10. Mr Dyer submitted that the case involves a number of witnesses timetabled to give evidence, including a vulnerable witness, and that the adjournment requested would inevitably be for a period such that the substantive hearing could not take place in the current window and the resulting delay would be significant. He submitted that an adjournment would not be consistent with the overriding objective to ensure that fitness to practice hearings are dealt with fairly and justly, that the Tribunal has been convened in order to consider and determine the questions of misconduct and fitness to practise. He submitted that this will inevitably include a consideration of the sufficiency of the evidence and that having regard to all of the above factors, the adjournment is not in the interests of justice and should not be granted.

The Tribunal's Decision

11. Rule 28 states:

28. (1) Where, after an allegation has been referred to the Committee and before the opening of the hearing before the Committee—

(a) a practitioner who has requested an oral hearing withdraws that request; or

(b) it appears to the Registrar for some other reason that the hearing should not be held,

the Registrar may refer the matter to a medical or lay Case Examiner for a decision as to whether or not the matter (or part of it) should be withdrawn.

(2) Where after a matter has been referred to a Medical Practitioners Tribunal or Interim Orders Tribunal and before the opening of the hearing before the Tribunal, it appears to the Registrar that a matter (or part of it) should not be considered by a Medical Practitioners Tribunal or that an Interim Orders Tribunal should not consider making an order, the Registrar may refer the matter to a medical or lay Case Examiner for a decision as to whether the matter (or part of it) should be withdrawn.

...

12. The Tribunal considered that the application for time effectively sought to invoke Rule 28, which permits the Registrar to refer the matter for cancellation before the opening of the hearing. The application was submitted following the Tribunal having commenced and begun hearing preliminary legal submissions.

13. The submission made on behalf of Dr Arunoday was that, for the purpose of the operation of Rule 28, the hearing does not formally ‘*open*’ until the moment the GMC opens its case and the practitioner is formally named in a substantive context. This proposes that any preceding legal or procedural argument constitutes mere preliminary steps, separate from the “*hearing*” itself, and thus, the gateway for Rule 28 submissions remains open.

14. The Tribunal considered the submissions made on behalf of both parties and the overriding objective of the MPTS Rules, which requires certainty and transparency in proceedings, and was required to determine the definitive moment this hearing opened.

15. The Tribunal concluded that the hearing commences at the point the Tribunal takes its place and formally engages with the parties on any matter—be it procedural, legal, or substantive—relating to the current case. The public nature of proceedings is engaged immediately upon the commencement of the session. The locus of the Tribunal is established, and the parties are invited to make formal submissions. This constitutes the definitive opening of the hearing.

16. The Tribunal rejected the narrow definition proposed on behalf of Dr Arunoday and concluded that the initial exchange of legal arguments, submissions on disclosure, or applications regarding procedure (such as the present application itself) are not extraneous to a hearing; they are integral and necessary components of the judicial process.

17. While a Tribunal may not be considered fully ‘seized’ of the facts and merits until the GMC delivers its opening address, the commencement of the hearing for procedural timing purposes (specifically, the time-bar for Rule 28) is a distinct event. The commencement occurred when the Tribunal convened and began adjudicating on issues in this matter. Therefore, whether the Tribunal is technically ‘seized’ of the merits is irrelevant to the time-bar imposed by the plain wording of Rule 28.

18. To adopt the defence's definition would lead to an unworkable procedural timeline. More importantly, Rule 28 is a specific pre-hearing mechanism intended for cases where circumstances change prior to commencement.

19. Once the Tribunal has been formally convened and has begun to hear matters in the case, the jurisdiction for cancellation shifts from a Registrar-led administrative function to the Tribunal's inherent power to stay or dismiss proceedings. Rule 28, by its plain wording (*"before the opening of the hearing"*), is therefore time-barred.

20. As the Tribunal had already convened and heard legal submissions from both parties prior to this application being made, the hearing is determined to have already opened and commenced in public.

21. The Application was therefore formally refused.

SCHEDULE 1

asked her to send you a video of her masturbating
asked her if she had done different sexual things
asked her to send you pictures and / or videos of a sexual nature
asked her to insert a sex toy into her vagina and send him a picture