PUBLIC RECORD

Dates: 03/11/2025 - 10/11/2025

Doctor:	Mr Stephen HAWES
GMC reference number:	2626000
Primary medical qualification:	MB ChB 1980 University of Bristol

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	No facts found proved	Consideration of impairment not reached

Summary of outcome

Case concluded

Tribunal:

Legally Qualified Chair	Gillian Temple-Bone
Lay Tribunal Member:	Mr Tim Skelton
Registrant Tribunal Member:	Mr Jeff Phillips

Tribunal Clerk:	Ms Olivia Gamble

Attendance and Representation:

Doctor:	Present, represented
Doctor's Representative:	Mr Andrew Hockton, instructed by Weightmans
GMC Representative:	Mr Jeremy Lasker

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 10/11/2025

1. Dr Hawes qualified with a Bachelor of Medicine and Bachelor of Surgery (MB ChB) from Bristol Medical School in 1980 and was registered as a doctor in 1981. He was employed by the Manchester University NHS Foundation Trust ('the Trust') as a Consultant in Emergency Medicine from 1992 until he retired in 2023.

2. The matters that have led to Dr Hawes's hearing can be summarised as follows. It is alleged that on 25 May 2021, Dr Hawes consulted with Patient A. It is alleged that whilst examining her for abdominal pain he caused excessive and/or disproportionate exposure of the patient and that he palpated her from behind whilst she was exposed as described.

3. It is further alleged that Dr Hawes failed to: explain to Patient A why he examined her in the way that he did; offer Patient A, a chaperone, during his initial consultation and keep an adequate record in that he did not record the parts of the examination when the chaperone was present.

4. Finally, it is alleged that Dr Hawes' actions, as described above, were sexually motivated.

The Outcome of Applications Made during the Facts Stage

5. An application was granted for anonymity for Patient A, due to her vulnerability, on 31 October 2025, pursuant to Rule 16(6)g FPR 2004. The Tribunal granted a further application, made by Mr Jeremy Lasker, Counsel on behalf of the GMC, for the names of Patient A's mother and sister to also be anonymised to preserve the privacy of Patient A, pursuant to Rule 36(3)d(i) FPR 2004.

The Allegation

6. The Allegation made against Dr Hawes is as follows:

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

1. On 25 May 2021, whilst examining Patient A for abdominal pain, you:
   a. caused excessive and/or disproportionate exposure of Patient A in that you:
      I. asked her to remove her sports bra; To be determined
      II. pulled the gown from her to expose her breasts; To be determined
      III. removed the gown from her body completely; To be determined
   b. palpated her from behind whilst she was exposed as described at paragraph 1a; To be determined
   c. failed to:
      I. offer Patient A an explanation as to why the actions at paragraphs 1a and/or 1b were to be carried out; To be determined
      II. offer Patient A a chaperone during the actions as set out at paragraph 1a and/or 1b; To be determined
      III. keep an adequate record, in that you did not record the part(s) of the examination when a chaperone was present. To be determined

2. Your actions described at paragraph(s) 1a to 1c were sexually motivated. 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

Witness Evidence

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

- Patient A;
- Patient A's sister;
- Patient A's mother;
- Ms B – Nursing Sister at the Emergency Department of Wythenshawe Hospital ('the Hospital') and the chaperone who attended during the consultation in question;

- Dr C – expert witness.

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

- Professor D – Group Associate Medical Director for Professional Matters – dated 22 May 2024;
- Dr E – General Practitioner at Firsway Medical Centre – dated 3 June 2025.

9. Dr Hawes provided a witness statement dated 29 August 2025. He also gave oral evidence at the hearing.

Documentary Evidence

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

- The witness statements outlined above;
- The expert report of Dr C – dated 8 August 2024;
- Interview notes for Ms B – undated;
- Dr Hawes' statement – dated 18 May 2025;
- Interview notes for Dr Hawes – dated 15 June 2022;
- Email from Patient A to Manchester Trust – dated 4 March 2022;
- Interview notes for Patient A – dated 24 May 2022;
- Diagrams drawn by Patient A – undated;
- Patient A's medical records provided by Dr E – dated 27 January 2022;
- Further medical records relating to Patient A – various dates.
- Testimonials and 360 feedback on behalf of Dr Hawes

The Tribunal's Approach

11. 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 Hawes 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 alleged, occurred.

12. The Tribunal was advised by the Legally Qualified Chair (LQC) that the burden of proving the disputed facts of the Allegation lay on the GMC. The Tribunal is entitled to draw inferences (that is to say to draw common sense conclusions based on the available evidence), but the Tribunal ought not to speculate as to whatever other evidence may have been available. Speculation is little more than guesswork.

13. Regarding inferences that may be properly drawn from the evidence the case of Malhar Soni v GMC [2015] EWHC 364 is relevant. The Tribunal must be mindful that when drawing inferences, it has been able to safely exclude, as less than probable, any other possible explanations for the charges in the allegation against Dr Hawes.

14. The Tribunal does not have to determine every issue that has arisen during the course of the hearing, only such matters as will enable the Tribunal to say whether the allegation against Dr Hawes is proved. The Tribunal will do that by having regard to the whole of the evidence, forming its own judgment about the oral and documentary evidence before the Tribunal, and deciding which evidence is reliable and which is not.

15. Witnesses cannot be expected to remember with crystal clarity events which occurred more than four years ago. The Tribunal noted that when considering the evidence of any witness in this case, it should bear in mind the extent to which the passage of time may have affected the memory of the witness. The Tribunal should be aware from its own experience that memories can fade with the passage of time and that recollections may change or may become confused as to what did or did not happen at a particular time.

16. The Tribunal should consider the way in which the passage of time may have affected the recollection of any witness. The Tribunal should make allowances for the fact that from an accused person's point of view, the longer the time since an alleged incident, the more difficult it may be for him to answer it. If the Tribunal consider that Dr Hawes has been placed at a real disadvantage in putting forward his case by reason of the passage of time, it is right that the Tribunal should take that into account in his favour when deciding if the GMC has satisfied it, that the allegation, or any part of it, is proved.

17. Regarding sexual motivation, the Legally Qualified Chair referred the Tribunal to the case of Basson v GMC [2018] EWHC 505 (Admin) and Haris v GMC [2021] EWCA Civ 763 (Admin), the Legal Chair advised:

(i) The state of a person's mind is not something that can be proved by direct observation. It can only be proved by inference or deduction from the surrounding evidence. The Tribunal is required to make a deduction from all the facts and circumstances of the case;

(ii) Sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship;

(iii) In order to assess whether or not the behaviour complained of was sexually motivated (that is, what is the likeliest deduction to be made), the following factors are relevant:

- the nature of the behaviour (this can be the best evidence of motivation);
- was there any other plausible reason for the behaviour;
- did the practitioner explain what he was about to do and seek consent in advance for the behaviour;
- what was Patient A's perception?
- is there evidence of sexual gratification?

(iv) Ask if there is some other rational inference or conclusion to be drawn from all the circumstances. Ask if there is a more likely explanation for the proved behaviour than the allegation of sexual motivation.

18. Some actions or comments may be inappropriate or ill-judged, but it does not mean that they are necessarily sexually motivated. Arunkalaivanan v GMC 2014 EWHC 873 at para 50. The sexual quality of touching is not constituted wholly by the state of mind of the doctor; it is constituted also from the experience of the person being touched and the lack of objective justification for the act found to have been done as set out in the case of Dr Sawati v GMC 2022 EWHC 283 at para 89.

19. So far as the making of complaints in sexual assault cases is concerned, in R v D (JA) 2008 EWCA Crim 2557, the Court of Appeal accepted that a judge may give appropriate directions to counter the risk of stereotypes and assumptions about sexual behaviour and reactions to non-consensual sexual conduct, including:

(i) experience shows that people react differently to the trauma of a serious sexual assault, that there is no one classic response;

(ii) some may complain immediately whilst others feel shame and shock and not complain for some time; and

(iii) a late complaint does not necessarily mean it is a false complaint.

20. The Tribunal should bear in mind that there may be good reasons why a victim of sexual assault generally may not complain, or may delay in complaining, about a sexual offence. When assessing the credibility of alleged victims of sexual misconduct (and considering lapse of time between the events and when they were reported) the tribunal must appreciate that it may take several years for victims of sexual abuse to come to terms with what has happened to them. Roy v General Medical Council [2023] EWHC 2659 (Admin).

21. Stereotypes of a 'complainant', an 'assailant' or views as to what is an appropriate or inappropriate reaction should be avoided. The Tribunal should approach their decision making without any pre-formed assumptions. Caution should be exercised against stereotypical images of how a complainant or an alleged perpetrator of a sexual offence ought to have behaved at the time or ought to appear when giving evidence and should judge the evidence on its intrinsic merits. Some people may show emotion or distress and may cry. But other people will seem very calm or unemotional. This is not to invite tribunal members to suspend their own judgement but to approach the evidence without prejudice.

22. To decide this point, the Tribunal should look at all the circumstances including the reason that Patient A gave for not having complained at the time that she says this incident occurred. Different people react to particular situations in different ways. Some, if they have experienced something of the kind complained of in this case, may tell someone about it straight away, whilst others may not be able to do so, whether out of shame, shock, confusion or fear of getting into trouble, or not being believed. In this case, the Tribunal should consider Patient A's circumstances and should consider whether or not those things would have affected her ability to complain at that time.

23. The fact that a complaint is not made at the time does not necessarily mean that it must be untrue any more than the fact that a complaint is made immediately means that it must be true. It is for the Tribunal to decide whether or not Patient A's evidence is true.

24. Experience has shown that inconsistencies in accounts can happen whether a person is telling the truth or not. This is because if someone has a traumatic experience such as the kind alleged in this case, their memory may be affected in different ways. It may affect that person's ability to take in and later recall the experience. Also, some people may go over an event afterwards in their minds many times and their memory may become clearer or can develop over time. But other people may try to avoid thinking about an event at all, and they may then have difficulty in recalling the event accurately. The Tribunal's assessment of this

factor will be influenced by its conclusions as to the facts of this case. The Tribunal must form a view of what happened in this case based on all the evidence presented.

The Tribunal's Analysis of the Evidence and Findings

25. Patient A had experienced a significant amount of blood in her stools. On 25 May 2021 she consulted her GP about her symptoms. An appointment with her GP was not available and she was advised by the GP practice to attend her local Accident and Emergency Department ('A&E'), which she did. This was during the Covid-19 pandemic, when various restrictions were in place. Patient A was driven to hospital by her XXX sister but due to Covid-19 restrictions, her sister was not allowed to accompany her into the hospital. XXX. Patient A then aged XXX, had never been to hospital alone before. In the car on the way to A&E she was told by her XXX sister to expect to have a '*finger stuck up her bum.*'

26. Patient A was examined by Dr Hawes in the ambulatory area of A&E. Both he and Patient A were wearing masks. Dr Hawes also wore scrubs and gloves. After the examination, Patient A left with a diagnosis of an anal fissure and some lignocaine gel. There was no further referral because she was already awaiting an outpatient appointment with gastroenterology. When her sister asked what had happened, Patient A did not want to talk about it. At some time later, perhaps a week or more, Patient A told her sister that something had happened during the examination which was upsetting. Patient A described having her chest examined around her breasts, but her nipples weren't touched. Her sister expressed surprise that her chest had been examined. Later still, the sister told their mother who also expressed surprise at there having been a chest examination. Both the sister and mother in oral evidence repeated their surprise that a chest examination of Patient A was undertaken and that Patient A had had to be fully undressed.

27. Chronologically, on 12 August 2021, Patient A had an abdominal and a vaginal speculum examination by a male doctor at St Mary's hospital. In oral evidence Patient A had no memory of that event. On 9 November 2021, when attending at her GP surgery for rectal bleeding, the female GP wanted to examine her. The GP has no memory of the consultation but in her witness statement set out that Patient A disclosed that she '*was examined in AE a few months ago and felt it was an inappropriate examination as was asked by a male doctor to be fully naked without a chaperone; this has put her off any further examination and does not wish to be examined rectally today*.' Patient A described her GP advising her to report the matter, and she got in touch with the Patient Adviser and Liaison Service ('PALS').

28. In February 2022, Patient A had a colonoscopy, conducted at her request, by a female doctor. Patient A made several unsatisfactory telephone calls to PALS, and then sent a complaint by email to Manchester NHS Trust on 4 March 2022. Dr Hawes became aware of the complaint and prepared a statement for the Trust investigation dated 18 May 2022. He could not at that time recall the consultation of May 2021 but relied upon his usual practice and the record of the consultation he had entered in hospital notes.

29. In her oral evidence, Patient A's primary concerns were that no other person should experience what she did during the examination. She was given a gown but later she was uncovered and was naked during part of the examination. She had been expecting a rectal examination and had prepared for that. When the doctor gave her a gown she removed her clothes including her knickers but kept her sports bra on. She did not expect an examination of her upper body. In an interview with The Trust on 24 May 2022 in answer to a question '*What did he do to your chest*?' she replied '*touching it all, and all around and then listen and then look and start touching again and then he started moving down to my stomach and stuff. I feel my chest didn't need examining like that.*' Later in that interview, Patient A stated '*I didn't know anything wasn't right at the time, so you do trust a doctor and I had gone home and I had said the guy was a bit weird and uncomfortable during it and I have been for other things and never felt uncomfortable and I said no one else was in the room while this was happening*.'

30. Patient A was asked in the Trust interview, '*Who were you telling*?' She replied, '*My mother and sister, they said you should have had an entourage, I had gone to the doctors at a later date, and she had tried to examine me and I got really upset and explained to her what happened and she said I had to report this.*'

31. Patient A was consistent in her initial complaint, her interview with the hospital trust, her statement to this tribunal and in her oral evidence that she had been given a gown to undress in private, by Dr Hawes. Thereafter, following an examination of her chest, the gown was no longer there and she was naked on the examination bed and during a standing examination of her abdomen.

32. A chaperone was present during the rectal examination but not during the prior chest, heart and abdomen examinations. The nurse chaperone could not recall the consultation at all and relied in oral evidence on her usual practice and the hospital notes.

33. Dr Hawes in reliance on his usual practice and the hospital notes, explained that he would have taken a history, explained that a clinical examination was needed, asked her if she wanted a chaperone to be present, and would have provided her with a gown to undress into, in privacy. He described the manner in which he would have conducted examinations of her chest, heart and abdomen, asking her to move the gown either up or down her body in stages, to ensure her modesty was protected.

34. Dr Hawes has had no complaints against him in 40 years of practice as a consultant in emergency medicine. He was Undergraduate Dean for clinical studies for five years and postgraduate clinical tutor at University Hospital of South Manchester for seven years. Additionally, he was in the territorial army, was deployed to Afghanistan for 4 months in 2010, and assisted in disaster relief work in Haiti and Nepal. He submitted very positive testimonials from female and male consultants with whom he had worked for many years, and positive 360 feedback from colleagues and patients.

35. Throughout its decision making, the Tribunal took into account the following factors, which in its opinion are unique to this case:

- The examination in question took place on 25 May 2021 during the Covid-19 pandemic, therefore, both Patient A and Dr Hawes were wearing masks.
- The ambulatory area where Patient A waited to be examined and the area where she was examined were at that time not busy with patients, according to Patient A's memory.
- Dr Hawes has a quiet speaking voice.
- Patient A provided a family history XXX
- Patient A did not expect to have her chest examined and was expecting only an examination of her abdomen and her bottom, including a *'finger being stuck up her bum.'* In evidence, Patient A told the Tribunal *'My sister said, 'that wasn't normal' when I told her that my chest was examined and that I was naked.'* In evidence, when Patient A's sister was asked whether she expected that Patient A's upper half of her body would be examined she said, '*No not at all*'.
- Passage of time: The medical examination complained of, took place on 25 May 2021. The first Dr Hawes knew of a concern was after the date the complaint was sent on 22 March 2022. At the time of this hearing, the consultation had taken place four and a half years ago.

- Neither Dr Hawes nor Ms B [chaperone] remembered the particular consultation. Each relied, in evidence, upon Dr Hawes' recording in hospital notes, and separately their 'usual practice.'
- Dr Hawes' evidence was that A&E see up to 300 patients a day who may be in varying degrees of undress.

36. Patient A was consistent in her memory of being naked during part of the examination, exposed, and uncomfortable. In an interview with the Hospital Trust she explained she was suffering from '*really bad abdominal pain, it was just a lot of blood in my stools. I did think I had a tear as XXX*.' In oral evidence she was less clear in her memory of whether Dr Hawes was 'tapping' her chest, whether he used a stethoscope, whether he explained the nature of the examinations he would have to carry out. She stated '*I don't think he went into it in depth … I was already anticipating a rectal examination*.'

37. In oral evidence Patient A denied that her memory was poor but accepted she may have forgotten some things. She asserted that the main things were clear in her memory. Patient A didn't remember giving the receptionist details as to why she was there; she didn't remember being called to see the doctor; she sat on a chair in a room; she didn't remember moving from the chair to the bed where she was examined; she did remember taking off her clothes including her knickers, but not her sports bra and lying on the bed and that the doctor was not present; she remembered that Dr Hawes came back, saw she had a bra on and told her to remove it; (in another account) she told him she had a bra on and asked him if she should remove it, and he said yes; she thought Dr Hawes was wearing gloves during the examination; the examination of her chest was slow; there might have been a stethoscope but she couldn't remember; she didn't recall Dr Hawes explaining he would be examining her kidney area looking for tenderness, but she did remember him asking her if her kidney area was tender; a chaperone was never mentioned, although in oral evidence she stated that she didn't know the meaning of the word 'chaperone.' Having previously asserted that he did not use a stethoscope, Patient A stated that he did use one on her back and assumed he did so on her chest but she couldn't remember.

38. The Tribunal found that whilst Patient A tried her best to recall what had happened during the examination, she was not always consistent with her recollections. Throughout her evidence, including her email and interview with the Trust, her statement to the GMC and her oral evidence she consistently maintained that she was completely naked for part of the examination. The Tribunal accepted that it was more likely than not that Patient A was in a naked state during part of the examination. However, other aspects of the examination that

were recalled by Patient A were less consistent, including how the gown came to no longer be covering any part of her body. Furthermore, the Tribunal noted that Patient A did not remember having an abdominal and vaginal speculum examination in August 2021.

39. The Tribunal did not consider the delay in Patient A making her complaint was material. Such delay is not untypical in cases of this nature. The Tribunal considered that Patient A was clear in her belief that the examination had been inappropriate, particularly the fact of the chest examination and her being naked part way through the examination. It had adversely affected her emotionally. Her mother and sister had together doubted the need for a chest examination and highlighted that she should not have been alone with a male doctor during the examination. The Tribunal found it more likely than not that Patient A was expecting a rectal examination and was not expecting a chest and heart examination and that her perception was influenced by her expectations.

40. Dr Hawes was unable to assist the Tribunal with his memory of the consultation save to describe his usual practice and to rely on the record in the hospital notes. His description of the clinical examination of a patient presenting with abdominal pain, a family history of Crohn's and the need at that time to check every patient for possible Covid accords with the leading textbooks. Patient A's description of his touching her chest and back with a stethoscope also accords with the examination he says he would have performed and indeed had recorded within the medical notes. Dr Hawes in oral evidence had a quiet voice which may not have been heard clearly by Patient A behind a mask. The Tribunal had no reason not to believe Dr Hawes, save for Patient A's allegations. The Tribunal found Dr Hawes a clear, credible and convincing witness. He was a doctor of good character with a long and complaint free history of practice.

<u>Paragraph 1ai</u>

The Tribunal considered paragraph 1ai of the Allegation.

> On 25 May 2021, whilst examining Patient A for abdominal pain, you:
> a. caused excessive and/or disproportionate exposure of Patient A in that you:
> i. asked her to remove her sports bra;

41. The Tribunal noted that in Patient A's initial email complaint dated 4 March 2022, she recorded that '*on entering the room we had a conversation as to why I was there then he gave me a gown told me to put it on and left the room. When he returned he saw that I still*

had a sports bra on and asked me to remove it as well.' In oral cross-examination Patient A stated, *'I think he just told me to undress and because I knew it was for a rectal examination I removed my knickers … he came back in, I said do I need to remove that as well [bra] and he said yes and this is before the examination*.' In cross-examination Patient A was asked '*He [Dr Hawes] pulled the gown down to examine the front of your chest – pulling the gown down as he needed to*?' Patient A replied, '*Yes he moved the gown so he could examine my chest.'*

42. Dr Hawes' position is that he does not remember the consultation. His statement relies on his usual practice and his statement records that '*It is my standard practice for female patients that they should keep their underwear on and this includes their bra and knickers. I would not have left the patient naked*.' Later he records '*On occasion and often due to the patient's body habitus or tight-fitting clothing it has been necessary for me to ask the patient if they would be content to remove their bra so that I can adequately percuss and listen to the chest and heart sounds at the front of the chest*.'

43. In cross-examination when asked about the absence of Patient A's bra he stated: *'There are occasions when I do ask the patient to remove her bra so that could've happened.'*

44. The Tribunal considered the medical literature provided by the expert Dr C including in particular the Oxford Handbook of Clinical Examination and Practical Skills and Browse's Introduction to the Symptoms and Signs of Surgical Disease, two leading medical textbooks. Under the heading 'Examination of the Abdomen' it sets out, '*A thorough clinical approach leads to a realistic list of differential diagnoses that can then be refuted or strengthened by special investigations*.' Later under the heading 'Technique for Examination of the Abdomen' it states: '*….The diagnosis of abdominal complaints is extremely difficult … the diagnosis of the source of the pain will depend on physical examination … The abdomen stretches from just below the nipples to the bottom of the pelvis a few inches above the anal canal… You must see the full extent of the abdomen. Therefore, you must uncover the patient from nipples to knees.'* Recommendations for abdominal examinations include, '*preferably the whole upper torso should be uncovered*.' The physical examinations rely on manual palpation by the clinician using both hands, one on top of another.

45. The Tribunal also considered the expert evidence of Dr C, whose opinion was that whilst he would not criticise Dr Hawes for doing a full chest examination, as being part of an examination for abdominal pain, he would probably not have exposed the whole chest. Dr C, in relying on those textbooks for guidance on the conduct of abdominal examinations indicated that this would include a patient's breast area. He agreed that he would not

criticise Dr Hawes' thorough approach and agreed that where patients presented with abdominal pain the vast majority had chest examinations. Dr C agreed there would be inadvertent contact with the patient's breasts. In order to properly examine the patient, it would involve auscultation and percussion and separately to listen with the stethoscope in the same areas. Dr C agreed that it would be appropriate for Dr Hawes to conduct an examination of the patient's heart as well. Dr C agreed that whilst it would be preferable not to expose the whole of the patient's body, the removal of a patient's bra in order to conduct a chest examination can be clinically indicated.

46. The Tribunal found it was more likely than not that Dr Hawes did ask Patient A to remove her sports bra. It was clinically indicated and was a reasonable request in order to conduct a thorough examination of Patient A given the presenting symptoms. In the circumstances there was nothing excessive or disproportionate in her exposure when she was asked to remove her bra. The Tribunal found that the removal of Patient A's bra did not cause excessive or disproportionate exposure.

47. The Tribunal therefore found paragraph 1ai of the Allegation not proved.

<u>Paragraph 1 a ii</u>

48. The Tribunal went on to consider paragraph 1aii of the Allegation.

> On 25 May 2021, whilst examining Patient A for abdominal pain, you:
>
> a caused excessive and/or disproportionate exposure of Patient A in that you:
>
> ii pulled the gown from her to expose her breasts;

49. The Tribunal noted that this allegation arises from an erroneous quotation by Dr C in his report of words purported to come from Patient A. They do not reflect the account of Patient A who stated:

> *'Then I laid down on the bed on my back and Mr Hawes proceeded to pull the gown I was wearing down to examine the front of my chest… He removed the gown entirely whilst I was lying on my back and I was then completely naked on the bed, I do not know where the gown went because I couldn't see it, I think it may have been under the bed.'*

50. The Tribunal noted that Patient A did not allege that Dr Hawes 'pulled down the gown to expose her breasts,' but did state [as set out above] that he pulled the gown down to examine her chest. The Tribunal considered that the removal of her gown, although it may have exposed her breasts, was not excessive or disproportionate given the medical textbook evidence it had before it. The Tribunal found it more likely than not that the exposure of Patient A was clinically indicated and part of a reasonable action in order to conduct a thorough examination of Patient A given her presenting symptoms and family history.

51. The Tribunal therefore found paragraph 1aii of the Allegation not proved.

Paragraph 1 a iii

The Tribunal considered paragraph 1aiii of the Allegation.

> On 25 May 2021, whilst examining Patient A for abdominal pain, you:
> a caused excessive and/or disproportionate exposure of Patient A in that you:
> iii removed the gown from her body completely;

52. The Tribunal accepted Patient A's consistent evidence that mid-way through the examination of her chest and her abdomen, she was naked. As submitted by the GMC this feature was at the heart of Patient A's complaint that during the examination she had become naked leaving her feeling extremely vulnerable and exposed both on the hospital bed and in a standing position. In both her written accounts in 2022 Patient A describes this as 'he removed it.' She was aged XXX, alone for the examination because her sister hadn't been allowed to accompany her due to Covid. She had not been examined in a hospital before. Patient A was inconsistent when describing the removal of the gown. In the email complaint of 4 March 2022, Patient A sets out '*after the examination of my chest he then pulled the rest of the gown off and I am unaware of where it went as I was completely naked as he then examined my stomach and lower crotch.'* In the Trust interview of 24 May 2022, Patient A stated, *'He went back behind the curtain at this point while I took it off* [the bra] and *I was lay on the bed, he comes back in and then at this point he gets the gown and undresses me and then I was completely naked.'* In Patient A's statement to the GMC she stated, '*First he made me sit forward on the bed and listened to the back of my chest using a stethoscope. Then I laid down on the bed on my back and Mr Hawes proceeded to pull the gown I was wearing down to examine the front of my chest … He removed the gown entirely whilst I was lying on my back and I was then completely naked on the bed. I do not know where the gown went because I couldn't see it, I think it may have been under the bed. Mr Hawes then began*

to examine the front of my chest using his hands only.' In oral evidence Patient A was asked, '*He pulled the gown down to examine the front of your chest, pulling the gown down as he needed to?*' She said, '*Yes, he moved the gown so that he could examine my chest.'*

53. The Tribunal considered Dr Hawes' oral evidence, which was that there was no medical reason requiring her to be naked and that he did not believe he would have asked Patient A to remove her gown entirely. He said normally the patient would raise the gown for their abdomen to be examined and when standing up they would hold it against their body. He accepted that as anything is possible, the gown could have fallen off the bed but it was not a situation he believed he had had before. The gown may have inadvertently fallen on the floor, but he thought he would be reluctant to pick the gown off the floor as that would be unhygienic, although he might do. He would never have expected the patient to be without knickers. Asked what he might do in those circumstances, Dr Hawes gave the impression of not knowing but then said he would try to retrieve the situation and cover the patient. His evidence made it clear that he was not expecting Patient A to have removed her knickers.

54. The Allegation uses the verb in an active manner 'you removed the gown.' The Tribunal find that the most likely explanation is that the gown simply fell off the bed. The Tribunal took into consideration the disadvantage to Dr Hawes of the passage of time, that he could not recall the consultation, the inherent unlikelihood of his having removed the gown and the inconsistencies in Patient A's evidence as to how the gown came to be removed. On Dr Hawes' account he would have usually, taken a history, described the examination he was about to conduct, providing a running commentary as he did so. His voice is quiet and at that time he had to wear a mask. Patient A asserts that he explained he was going to examine her chest. The Tribunal found that it was more likely than not that Patient A was excessively exposed and no immediate action was taken to cover her. However, the Tribunal was not of the view that Dr Hawes deliberately caused Patient A to become naked. On a balance of probabilities, the Tribunal found that the GMC had not discharged their burden of proof to the sufficient standard. The Tribunal did not find that it was more likely than not that Dr Hawes caused excessive and/or disproportionate exposure of Patient A in that he removed the gown.

55. The Tribunal took the view that overall, the GMC have failed to prove, that on the balance of probabilities, Dr Hawes removed Patient A's gown from her body completely.

56. The Tribunal therefore found paragraph 1aiii of the Allegation not proved.

57. Accordingly, the Tribunal found the entirety of paragraph 1 of the Allegation not proved.

Paragraph 1b

58. The Tribunal considered paragraph 1b of the Allegation.

59. The Tribunal considered that it has no evidence before it to support this allegation. All the evidence from Patient A and Dr Hawes is that he palpated her in a standing position from the side.

60. The Tribunal noted the allegation is based upon an erroneous description of that part of the examination in the expert report of Dr C. He accepted in his oral evidence that he had made an error in his expert report where he stated:

> *'She was subsequently stood up next to the couch while her entire abdomen ("abdomen & crotch") was palpated from behind'*

61. The Tribunal noted that Patient A's evidence is that Dr Hawes palpated her from the side, in a standing 'bent over' position.

62. The Tribunal therefore did not have evidence before it to find paragraph 1b of the Allegation proved.

63. Accordingly, the Tribunal found paragraph 1b of the Allegation not proved.

Paragraph 1c i

64. The Tribunal considered paragraph 1ci of the Allegation.

> 1.On 25 May 2021, whilst examining Patient A for abdominal pain, you:
>
> C failed to:
>
> i. offer Patient A an explanation as to why the actions at paragraphs 1a and/or 1b were to be carried out;

65. The Tribunal noted the evidence of Dr Hawes' that his usual practice is to provide a 'running commentary' during examinations, to explain to the patient what he is doing and why. It is clear from the record in the hospital notes that Dr Hawes took a family history and from Patient A's oral evidence that she showed him some photos of her toilet bowl.

66. The Tribunal considered that both Patient A and Dr Hawes were wearing face coverings due to the Covid-19 pandemic. The Tribunal found that it was more likely than not that Patient A did not hear Dr Hawes clearly, did not remember what he said and/or did not understand what was being explained to her.

67. The Tribunal considered Patient A's statement, where she said:

> *'I was then on the bed in the room wearing the gown, and Mr Hawes said he was going to listen to my chest to make sure everything was alright.'*

68. The Tribunal took this aspect of Patient A's statement as evidence that Dr Hawes was explaining to Patient A what he was doing during the consultation.

69. The Tribunal overall considered that the GMC has failed to prove this allegation on the balance of probabilities and accordingly, it found paragraph 1ci of the Allegation not proved.

Paragraph 1 c ii

70. The Tribunal moved on to consider paragraph 1cii of the Allegation.

> 1.On 25 May 2021, whilst examining Patient A for abdominal pain, you:
>
> C failed to:
>
> ii offer Patient A a chaperone during the actions as set out at paragraph 1a and/or 1b;

71. The Tribunal had regard to the evidence it had before it. It considered that it was unclear at what point the chaperone came into the consultation room. Patient A's evidence is that the chaperone was present for the rectal examination only and the Tribunal accepted that. Ms B's evidence was that it was quite usual for a chaperone only to be present for part of the consultation because they would only be required for intimate or invasive examinations.

72. The Tribunal had regard to the evidence of Dr C, the expert. It noted his evidence that it would have been 'wise' to offer a chaperone for Patient A's examination. However, it considered that there was no evidence provided by the GMC that it was obligatory for a chaperone to be present for the entirety of the consultation.

73. The Tribunal noted that Dr Hawes' evidence, when outlining his usual practice, was that he would have offered Patient A a chaperone for the full consultation in terms such as 'would you like a nurse to be here with you.' Patient A's evidence is that she did not know the word 'chaperone' at the time of the consultation. The Tribunal considered whether it was possible that given this, Patient A may have forgotten being offered one. The Tribunal overall considered the accounts in relation to the chaperone to be unclear. However, it did note the 2013 guidance in relation to chaperones for intimate examinations, where it is stated that a chaperone is not required for examinations of the chest and abdomen as these areas are not considered 'intimate'.

74. Given the circumstances and the lack of clarity and evidence surrounding this point, the Tribunal was not satisfied on a balance of probabilities that Dr A failed to offer Patient A a chaperone and it found paragraph 1cii of the Allegation not proved.

Paragraph 1 c iii

75. The Tribunal went on to consider paragraph 1ciii of the Allegation.

1.On 25 May 2021, whilst examining Patient A for abdominal pain, you:

C failed to:

iii keep an adequate record, in that you did not record the part(s) of the examination when a chaperone was present.

76. The Tribunal had regard to the evidence of the expert witness, Dr C, whose expert opinion was that Dr Hawes' record of the consultation with Patient A was adequate. The Tribunal considered that there was no evidence to support this allegation.

77. The Tribunal therefore found this allegation not proved.

78. Accordingly, the Tribunal found paragraph 1c of the Allegation not proved in its entirety.

Paragraph 2

79. The Tribunal considered paragraph 2 of the Allegation:

'Your actions described at paragraph(s) 1a to 1c were sexually motivated.'

80. The Tribunal has not found that the actions as described at paragraphs 1a to 1 c to have been undertaken by Dr Hawes. Whilst the Tribunal accepts that Patient A was naked for part of the examination and her modesty was compromised, this was not as a direct result of Dr Hawes acting in a way as to cause excessive and/or disproportionate exposure of Patient A.

81. Therefore, the Tribunal did not need to consider whether his actions were sexually motivated. In addition, the Tribunal has found that it was more likely than not that Dr Hawes' examination of Patient A was in line with accepted medical practice that therefore there was a plausible explanation for his examination of Patient A, that Dr Hawes did explain what he was doing and why and that there was no evidence of sexual gratification.

82. Accordingly, the Tribunal found paragraph 2 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

83. The Tribunal has determined the facts as follows:

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

1. On 25 May 2021, whilst examining Patient A for abdominal pain, you:
   a. caused excessive and/or disproportionate exposure of Patient A in that you:
      I. asked her to remove her sports bra; Not proved
      II. pulled the gown from her to expose her breasts; Not proved
      III. removed the gown from her body completely; Not proved
   b. palpated her from behind whilst she was exposed as described at paragraph 1a; Not proved
   c. failed to:
      I. offer Patient A an explanation as to why the actions at paragraphs 1a and/or 1b were to be carried out; Not proved
      II. offer Patient A a chaperone during the actions as set out at paragraph 1a and/or 1b; Not proved

III. keep an adequate record, in that you did not record the part(s) of the examination when a chaperone was present. Not proved

2. Your actions described at paragraph(s) 1a to 1c were sexually motivated. Not proved

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. Not proved