IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER

Appeal No. UA-2024-000365-V
[2025] UKUT 408 (AAC)

Summary: 65: Safeguarding Vulnerable Groups. 65.1: Children's barred list. 65.2 Adults' barred list. No mistake of fact or law.

On appeal from a decision of the Disclosure and Barring Service

Between: SS Appellant

and

The Disclosure and Barring Service Respondent

Before: Upper Tribunal Judge Johnston, John Hutchinson and Roger Graham

Decided on 08 December 2025 following an oral hearing on 1 December 2025

Representation:
Appellant: SS represented himself
DBS: Mr Tinkler, Counsel

ANONYMITY ORDERS

(1) The Upper Tribunal has made two orders under Rule 14 which remain in force.

(2) On 03 June 2024 the Upper Tribunal prohibited the publication of any matter or disclosure of any documents likely to lead members of the public directly or indirectly to identify the complainant referred to as Patient A.

(3) On 1 May 2025 the Upper Tribunal made a second order prohibiting publication of any matter or disclosure of any documents likely to lead members of the public directly or indirectly to identify the applicant.

(4) Any breach of the orders mentioned at paragraphs (2) and (3)S above is liable to be treated as a contempt of court and punished accordingly (section 25 of the Tribunals, Courts and Enforcement Act 2007).

DECISION

1. The appeal is dismissed, following an oral hearing on 03 December 2025.

2. The hearing was held in person. The appellant represented himself. The DBS was represented by Counsel, Mr David Tinkler. We are grateful to both for their submissions.

REASONS FOR DECISION

A. Introduction

3. The appellant appeals to the Upper Tribunal against the DBS's decision under reference 00997719136 communicated in a letter dated 15 December 2023 (pages 197-205 of the bundle) to include him in the adults' barred list and the children's barred list. Permission to appeal was given by Upper Tribunal Judge Johnston on 10 June 2025.

B. Factual and procedural background

4. On 15 December 2023 the DBS decided to include SS on the Adults Barred List and Children's Barred List. This decision was taken after the decision of the Medical Practitioners Tribunal Service (MPTS) on 09 December 2022 which found the allegations against the SS proved and erased his name from the medical register. This decision was appealed to the High Court and the appeal was dismissed on 13 July 2023.

5. The finding of the DBS was as follows:

> "1. On 23 September 2019, you consulted with Patient A and
> a. You carried out an examination of Patient A's chest and when it was not clinically indicated you:
> i. Put your hand inside Patient A's bra
> ii. Touched the underside of Patient A's breasts;
> iii. Felt around Patient A's breasts;
> b. When it was not clinically indicated, you carried out a further examination of Patient A's breast area and you:
> i. Lifted Patient A's:
> 1. Sweatshirt above her breasts
> 2. Breasts out of her bra;
> ii. Pressed, with the palm of your hand, Patient A's:
> 1. Left breast;
> 2. Right breast;
> 3. Nipples;
> 4. Breast area;
> c. Failed to:
> i. Explain the nature and purpose of your actions as set out in paragraphs a.i to 1.a.iii and 1b;
> ii. Obtain Patient A's verbal consent to undertake the actions as set out at paragraphs 1.a.i to 1.a.iii and 1b;
> iii. Offer Patient A a chaperone before carrying out the actions as set out at paragraphs 1.a.i to 1.a.iii and 1.b;
> iv. Offer Patient A:
> 1. Privacy to get undressed;

2. Privacy to get dressed;

v. Ask Patient A to remove her bra;

vi. Record your actions as set out at paragraphs 1.a.i to 1.a.iii and 1b in Patient A's medical records;

2. Your actions as described at paragraphs 1.a.i to 1.a.iii and 1b were sexually motivated.

And by reason of the matters set out above, your fitness to practise was impaired because of your misconduct."

C. Permission to appeal

6. Permission to appeal was granted on the grounds of whether the DBS made a mistake of fact in finding the allegation proved on the balance of probabilities. Permission was also given on the grounds that it was arguable that the DBS did not take sufficient notice of character statements and that there was no history of complaints or allegations against SS.

D. The hearing

7. SS had prepared a verbal submission which he had typed up and helpfully sent it to us and the DBS on the day of the hearing. He relied on the following grounds.

(i) The DBS failed by lacking recognition of the consistency of his evidence.
(ii) The DBS failed to properly consider the inconsistencies within the complainant's evidence
(iii) The DBS failed to give proper weight to the police investigation and the internal investigation carried out by the training organisation.
(iv) The DBS failed to properly consider the weight and significance of the self-referral to the GMC and my insight into the complaint.
(v) The DBS failed to properly evaluate or give weight to the extensive character evidence submitted.

8. In the hearing SS pointed to specific character references which were given prior and post his erasure by the MPTS. The first such reference was from a GP Partner undated (page 13-21 of the bundle). In the reference he says that although he had not worked with SS, his sister, who was a GP, had. He voiced his concerns about the finding of the MPTS, pointed out that SS self-referred, that the allegation was one person's word against another and there was no other allegation or complaint before or after the allegation was made.

9. The second letter dated 15 May 2023 (at page 187-196 of the bundle) was to the chair and CEO of the General Medical Council (GMC) from 8 consultant surgeons supporting SS expressing concern about the GMC contesting the appeal to the High Court, explaining that the local investigation by a wide range of medical professionals including SS's supervisors and the training Programme Director among others found no further action was necessary and offering to meet to discuss the matter further. They expressed concerns about the MPTS findings and support for a future career as a GP. He still maintains a non-patient facing role with them.

10. The third letter dated 21 October 2021 (page 542-543 of the bundle) was from a consultant psychiatrist with whom SS had worked. This letter was written before the

MPTS hearing. He said he had no concern with SS working with female patients, that he had received no complaints and he had no concerns about his honesty and integrity.

11. SS also gave evidence about what happened on the day. He told us that his recollection is from his written response to the allegation written on the day after the allegation and from his memory. He said that Patient A came into his room and he clarified why she had come to the appointment. He was sitting at an L shaped desk and Patient A was on the other side. He went round the desk to take her blood pressure and examine her eyes and glands in her neck. He asked her to stand, and she pulled her hoodie neck out so he could put his stethoscope on the top of her chest. She pulled it from one side of her body and then the other. The area touched by the stethoscope was around her clavicle. She then lifted her sweatshirt forward and upward from the bottom and he put his stethoscope below her breasts at the side of her body and on her back. At no time does he see her breasts. He did not conduct a breast examination.

12. He said he took the complaint seriously and that is why he has engaged in the process throughout including making a self-referral to the GMC. At one point the GMC could not contact her and he facilitated this. He pointed to the inconsistencies in her account of what had happened, who lifted her top, which breast it was, whether his hands were on the inside of her bra or outside. She changed the description of whether she was sitting and standing and at one stage she said she was lying on the table which would not have been possible as it was a computer desk.

13. In terms of other tests he took her glucose level which was low and he then gave her a sugary coffee which he made himself and she waited in the waiting room before coming back in after he had seen another patient. Her blood sugar level had then been raised. During this second consultation at no time had he conducted a breast examination or touched her breasts. In answer to a question from Mr Tinkler that Patient A was telling the truth he said, “no she is not telling the truth – there had been no previous complaints - I had not acted like this before and this did not happen”.

14. In answer to a question about whether the allegation could have been maliciously made he said that was one of the reasons. He said he wishes he had an explanation of why she did this.

15. In relation to his self-referral to the GMC he was asked in cross examination about who he had talked to before he did this. He said he had spoken to his professional body and the director of training. He was emphatic that he wanted to do this as he was honest and it was serious.

16. He told us and it was clear from the evidence in the bundle that following her complaint to the police they took no further action. He told us the police officer had called him to tell him and wished him a merry Christmas. At page 951 of the bundle the police confirm to the DBS by letter dated 20 October 2025 that although the GMC believed the patient, “there was insufficient evidence to progress to the Crown Prosecution Service”. In their summary they say:

> “SS and the complainant were doctor and patient, whilst was doing checks he allegedly removed the complainant’s breasts from her bra and touched them. The complainant felt this was done in an inappropriate way and did not consent to breasts being checked.”

17. The appellant did not dispute that his role as a GP trainee was regulated activity or that the regulated activity test was met.

D. Proceedings in other courts Before the DBS made the barring decision

18. The MPTS hearing began on 28 November 2022. Evidence was taken from Patient A on the first day of a 6 day hearing. We have the full transcript of her evidence at page 571-613 of the bundle. She was cross examined extensively by those representing SS and apart from opening statements it was only her evidence taken that day. SS gave evidence on day three of the hearing. On the second last day of the hearing the MPTS gave their determination on the facts. They found that the GMC had proved all parts of the allegation by Patient A. On the last day of the hearing, they decided to erase him from the medical register.

19. SS appealed this decision to the High Court. That appeal was dismissed. As said in the permission decision there was no evidence taken from witnesses. At paragraph 12 of the judgement Hill J said that the "starting point is that an appeal court will be very slow to interfere with findings of primary fact made by the MPTS." (paragraph 12 of the judgement.) The principles in Byrne were relied upon as follows:

> "As Morris J explained in Byrne at [15], the circumstances in which the appeal court will interfere with primary findings of fact have been formulated in a number of different ways:
> (i) Where "any advantage enjoyed by the trial judge by reason of having seen and heard the witnesses could not be sufficient to explain or justify the trial judge's conclusions": per Lord Thankerton in Thomas v Thomas [1947] AC 484 approved in Gupta;
> (ii) Findings "sufficiently out of the tune with the evidence to indicate with reasonable certainty that the evidence had been misread" per Lord Hailsham in Libman v General Medical Council [1972] AC 217;
> (iii) Findings "plainly wrong or so out of tune with the evidence properly read as to be unreasonable": per Girvan LJ in Casey v General Medical Council [2011] NIQB 95 at [6] and Warby J (as he then was) in Dutta at [21](7); and
> (iv) Where there is "no evidence to support a…finding of fact or the trial judge's finding was one which no reasonable judge could have reached": per Lord Briggs in Perry v Raleys Solicitors [2019] UKSC 5."

E. The Law

20. The relevant legislation is in the Safeguarding Vulnerable Groups Act 2006 (the Act).

21. Section 2 of the Act requires the DBS to maintain the children's and adults' barred lists. By virtue of section 2, Schedule 3 to the Act applies for the purpose of determining whether an individual is included in the list. Regulated activity is determined in accordance with section 5 of, and Schedule 4 to, the 2006 Act.

22. Schedule 3 to the Act also provides for inclusion by reference to "relevant conduct" by the person included in the list. By virtue of paragraph 3(3) of Schedule 3, the DBS must include the person in the children's barred list if the DBS is satisfied that the person has engaged in relevant conduct, and the DBS has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children, and the DBS is satisfied that it is appropriate to include the person in the list. Relevant conduct is defined in paragraph 4 of Schedule 3 as: conduct which endangers a child or is likely to

endanger a child; or conduct which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him; or conduct involving sexual material relating to children (including possession of such material); or conduct involving sexually explicit images depicting violence against human beings (including possession of such images), if it appears to the DBS that the conduct is inappropriate; or conduct of a sexual nature involving a child, if it appears to the DBS that the conduct is inappropriate. Paragraph 4(2) of Schedule 3 provides that a person's conduct endangers a child if the person: harms a child; or causes a child to be harmed; or puts a child at risk of harm; or attempts to harm a child; or incites another to harm a child.

23. Schedule 3 paragraph 16(1) and (3) of Act provides-

> 16 (1) A person who is, by virtue of any provision of this Schedule, given an opportunity to make representations must have the opportunity to make representations in relation to all of the information on which DBS intends to rely in taking a decision under this Schedule.
> …
> 3) The opportunity to make representations does not include the opportunity to make representations that findings of fact made by a competent body were wrongly made. Subsection 4 includes the General Medical Council as a competent body.

24. Section 4 of the Act governs appeals. It provides that an appeal may be made to the Upper Tribunal against a DBS decision only on the grounds that the DBS has made a mistake on any point of law or in any finding of fact which the DBS has made and on which the decision was based. Subsection (3) of section 4 provides that, whether or not it is appropriate for an individual to be included in a barred list is not a question of law or fact. (our emphasis)

25. XYZ and Disclosure and Barring Service [2025] EWCA Civ 191 refers to the Upper Tribunal Decision at paragraph 13 and says:

> "The UT was not persuaded that any type of estoppel applied in this context, pointing out that the DBS was not a party to the disciplinary proceedings before the TRA. It found, further that it was not necessarily an abuse of process to invite a Court or tribunal to make a finding inconsistent with the one made in earlier proceedings. The UT held at [67] that it must give the findings of the TRA Panel appropriate weight, just as it must give appropriate weight to the Barring Decision and all the other evidence before it, and make its own assessment of all the evidence to decide whether the Barring Decision was based on a mistake of fact. It concluded that it was not."

26. The Court of Appeal approved this reasoning of the Upper Tribunal.

27. In Disclosure and Barring Service v RI [2024] EWCA Civ 95 the Court of Appeal in discussing PF says at para 31;

> "It seems to me plain that the Presidential Panel in PF were saying that where relevant oral evidence is adduced before the UT in an appeal under s 4(2)(b) of the 2006 Act the Tribunal may view the oral and written evidence as a whole and make its own findings of primary fact."

28. And at para 35;

> "The DBS has draconian powers under the 2006 Act. A decision to place an individual on either or both of the Barred Lists is likely to bring their career to an end, possibly indefinitely. Parliament has given such a person the right of appeal to an independent and impartial tribunal which can hear oral evidence. It is in my view open to an appellant to give evidence that she did not do the act complained of and for the UT, if it accepts that case on the balance of probabilities, to overturn the decision."

F. The Analysis

Regulated activity

29. As mentioned above, the appellant did not dispute that the regulated activity test was met. We agree that it was met; The appellant was clearly engaged in regulated activity when he was a GP trainee.

Mistake of fact

30. We find that the DBS made no mistake of fact, for the following reasons.

31. The grounds put forward by SS as to why the DBS made a mistake of fact are:

> "(i) The DBS failed by lacking recognition of the consistency of my evidence.
> (ii) The DBS failed to properly consider the inconsistencies within the complainant's evidence
> (iii) The DBS failed to give proper weight to the police investigation and the internal investigation carried out by the training organisation.
> (iv) The DBS failed to properly consider the weight and significance of the self-referral to the GMC and my insight into the complaint."

32. This appeal is, primarily, a challenge to the various findings of fact made by DBS. The question for us to answer is whether the DBS made a mistake of fact in finding the allegation proved on the balance of probabilities.

33. We have significant evidence before us from the MPTS including the full transcripts and we heard the oral evidence of SS today. We did not have oral evidence from Patient A as the DBS did not call her as a witness. Mr Tinkler said in his submissions at 19.1 (page 942 of the bundle) this:

> "The Tribunal had the benefit of hearing Patient A give evidence over the course of a day. The UT will not have the same opportunity on this appeal. It is the position of the DBS that it is not appropriate to call Patient A and to require her to give evidence again. It is not the general practice of DBS to call witnesses before the UT. Furthermore, the Respondent is mindful that it is now almost six years since the incident. The UT does, however, have the benefit of the transcript of Patient A's evidence before the Tribunal."

34. The DBS can decide which witnesses, if any, they call. They have considered that given it is almost six years since the incident, and we have the transcripts available that they would not call her.

35. We are less impressed by an argument that it is not the general practice of the DBS to call witnesses before the Upper Tribunal. Given the Upper Tribunal can make a different

decision on the facts and the draconian powers the DBS have as recognised in Disclosure and Barring Service v RI above, it may well be an unwise practice. However, in this case we do have the full transcripts of Patient A's evidence to the MPTS, and the MPTS analysis and determination of the evidence and the decision of the High Court to assist.

36. SS relies on the consistency of his evidence given to the MPTS, to the police, to the local investigation once the complaint had been made and to Patient A when addressing her complaint. We agree that the evidence is consistent. But that does not make it true. It is one aspect to consider.

37. SS also relies on the inconsistencies of the evidence of Patient A in her separate statements to the GP practice the day after the events, the Assessing Best Evidence interview with the police and the statement signed for the MPTS proceedings. There are indeed inconsistencies in her evidence. They were summarised succinctly in the decision in the High Court which sets them out as follows:

> "30. Patient A had given accounts of her consultation with the Appellant in the following: (i) her handwritten statement dated 24 September 2019 (prepared by her father, but signed by her); (ii) an Achieving Best Evidence ("ABE") police interview on 6 November 2019; (iii) her witness statement for the GMC dated 11 May 2021; and (iv) her oral evidence before the Tribunal.
>
> 31. Across and within these accounts, there were several inconsistencies. These related to (i) whether, during the first part of the consultation, (a) the Appellant had felt her right or left breast first; and (b) the Appellant had felt her breasts inside her bra or taken them out of her bra; and (ii) whether, during the second part of the consultation, (a) the Appellant or Patient A had lifted up her sweatshirt; (b) the Appellant had taken her breasts out of the bra separately or together; and (c) Patient A was sitting on a chair or lying down on a bed or table."

31. SS maintains through his counsel at the MPTS hearing and today that these inconsistencies affected her credibility. Turning to the transcript of her evidence (which begin at page 571 of the bundle) she maintains that she was not so unwell that it affected her judgement of what was happening. She says this at page 575 of the bundle:

> "I'm sorry. Yes. So – I don't know how to say this. How I was thinking at the time, I don't think it clouded my judgement of what was happening, bearing in mind I put my faith in the doctor as I wasn't – I knew everything that was going on at the time basically. I don't think it affected my judgement and being able to understand what the doctor was saying. I just felt physically unwell."

32. And at page 588 of the bundle she says when asked about not remembering details:

> "As I say, stated earlier, it won't be anything to do with my mental ability or my mental capacity at the time of the appointment; there was nothing wrong with my mental ability to understand the situation. I was physically ill, so the fact that I don't remember is the passage of time and the trauma of the event that has caused me to not remember."

33. At page 589 when it was put to her that SS did not touch you inappropriately, she says this:

> "He did, and I wouldn't take it this far, I wouldn't put myself through even more – if I may carry on with this statement, I wouldn't put my family through the grief that they've gone through, I wouldn't put myself through this and my children through it. Living through this and having to re-live it every time it gets brought up, I want to put it to bed. Originally, I didn't even want to report it because I thought there must be a reason for it and I spoke to the practice manager and she told me there was no need for that. That's when alarm bells started ringing, as I stated before. I wouldn't take it this far if it hadn't have happened. I wouldn't jeopardise somebody's career and livelihood through a lie. It's not – I'm sorry but I wouldn't do that."

34. And at page 589 she says this in answer to whether she had convinced herself that something inappropriate had happened:

> "It did happen and I'm not going to say that it didn't because it did. If I didn't speak up and if this happened to someone younger than me, or to somebody else that didn't have the power to speak up, I'd never forgive myself – never."

35. And at 593 of the bundles in answer to a question about what happened in the second consultation:

> "As I've just explained to you, he asked for a further examination of my chest and this is when both of my breasts were out, my top was up and my arms were out of my top, my top was round my neck, I'd lifted it up round my neck, and, yes, he did ask for that so, yes, I did lift it up. I thought there was a reason for it. Both of my breasts were exposed out of my bra and this is when he started to press round, press round, he pressed on my nipple, asked if there was discharge, if I had any discharge coming out. Everything that he was saying sounded professional, which is why I thought there was a reason for it. The consultation didn't end where you said it ended; I don't agree."

36. SS gave a consistent account of what happened in the consultation. This is set out in his response to the first complaint by Patient A and it is the statement that he has relied on throughout. This is at page 176 of the bundle. Essentially, he says what he told us in the hearing today. He did not conduct a breast examination, he did use his stethoscope on her chest both above and below her breasts, but he did not see her breasts or touch them.

37. The MPTS decided that the inconsistencies in Patient A's evidence were explained by the passage of time and the trauma of events. In the High Court Hill J says at paragraph 37:

> "…In my judgment the Tribunal was entitled to accept Patient A's account;…"

38. As said in XYZ the Upper Tribunal is not bound by the findings of the regulatory body. We are hampered to an extent by not having Patient A before us. But as Mr Tinkler pointed out, we do have the transcripts of the case before us. The case was heard by experts, a legally qualified chair, a medical member and a lay member. The evidence of Patient A, some of which we quote above is compelling. The MPTS saw and heard from Patient A and gave a determination that was not successfully appealed to the High Court. SS told us today that the application for permission to the Court of Appeal was dismissed.

39. As Mr Tinkler said to us in his submissions there are two versions of the facts before us, both which may be inherently improbable. Why would Patient A make the allegation against SS if the inappropriate examination did not occur? She had not made any previous

allegations in her 29 years of being a patient at the GP practice. And why would SS inappropriately touch her breasts knowing that he may end his career? This was the first complaint against him.

40. Evaluating the evidence in the bundle, we give weight to the findings of the MPTS that Patient A proved the core facts on the balance of probabilities. We agree with it. Patient A was clear about the core elements of what happened at the consultation and the transcript of her evidence is compelling. The MPTS who heard her evidence in person and accepted her evidence. They evaluated it in a series of building blocks referred to by Hill J in the High Court. At paragraph 43 of that judgement, she says this:

> "Further, a fair reading of the Determination as a whole does not support the suggestion that the Tribunal fell into the trap of starting with the proposition that it believed Patient A. In fact, the Tribunal referred to a series of "building blocks" which justified its acceptance of her evidence in respect of both parts of the consultation. These were (i) the Tribunal's rejection of the illness "theory"; (ii) its acceptance that the passage of time and trauma had impacted on her accounts in the ABE interview and her oral evidence; (iii) her complaint the day after the consultation that the Appellant had inappropriately touched her breasts; (iv) her decision to report the matter to the police only when she knew he had denied the touching of her breasts, such that she thought "something was wrong"; (v) the Tribunal's assessment of her evidence on the "memorable aspect" of the examinations of her breasts as "consistent and clear"; (vi) Patient A's recollection in her oral evidence of "both the sensation of [SS] feeling her breasts in both parts of the Consultation and…seeing her breasts out of her bra with her top lifted up during Part two" (as accurately summarised by the Tribunal: see [47] below); (vii) the Tribunal's finding that as she had never had a breast examination before, she would have no obvious source of information about the detail of one, including the "telling detail" of the Appellant's enquiry about possible breast discharge, other than these events; and (viii) its finding of the absence of a reason for her to fabricate her account: see, in particular, [26]-[34], [50]-[51] and [61]-[67] of the Determination.

41. SS did refer the case to the GMC. He says he did this as it was a serious allegation, and he was showing his honesty and integrity. He was not referred by any of his colleagues, Patient A or those who conducted the local investigation. This is significant but does not detract from the findings of fact of the MPTS above with which we agree.

42. The DBS in the final decision letter also note that SS disputed that events but considered them proven on the balance of probabilities. Although SS is precluded from making representations that the findings of fact made by a competent body (see paragraph 16 of Schedule 3 to the SVGA), in this case the MPTS, were wrongly made they did go onto consider the findings of fact. They said on page 3 of their letter (at page 199 of the bundle):

> "The DBS have reviewed the statements of Patient A and are satisfied that, whilst there are some inconsistencies in her accounts, there are a number of factors which would account for those inconsistencies, such as processing/ rationalising what had happened to her and the passage of time; the inconsistences which are present, do not significantly deviate from the initial allegations to raise concerns about a malicious/fabricated allegation."

Mistake of law

43. First, the DBS did not err in law in finding that the facts the DBS had found were relevant conduct. So, once they had found the facts proved they were entitled to include SS on both barred lists. Although the allegation found proved were not against a child given the behaviour was found to be sexually motivated by the MPTS and the DBS there are adequate grounds to conclude that the behaviour could be repeated in relation to a post pubescent child.

44. Second, SS's final challenge to the DBS final decision to include him on the lists is that they did not take sufficient notice of character statements and history of working with children and adults. The DBS did not err in law in this way either, for the following reasons.

45. The character statements are very strong and are from both before the events for which he was erased and after. He is still employed by some of those who made these statements who are extremely supportive of him. However, we accept Mr Tinkler's submission on this matter that the DBS did consider the statements but were not persuaded by them. They say in the final decision letter as follows:

> "The positive character testimonials which had been provided to the Tribunal were provided to the DBS through the representation process as noted previously, your competence as a Doctor was not in question, when considering the competent body findings which had been made.
>
> The DBS has fully reviewed the references supplied, and it is accepted that they speak to your good character, your helpfulness and a number specifically detail they had no concerns regarding your interactions with female patients or staff. However, the main point of issue in this case is that there was only Patient A and yourself in the room when the harmful behaviour occurred and as such, although the references regarding your general conduct are acknowledge, by their very nature, they have been garnered based on observations of your behaviour in the presence of other professionals. As such, they do not necessarily negate the likelihood of you acting as alleged by Patient A."

F. Conclusion

46. We find that the DBS decision did not make a mistake of fact or a mistake on law on the reasons we have given above. The appeal is therefore dismissed.

Upper Tribunal Judge Sarah Johnston
Roger Graham
John Hutchinson
08 December 2025