

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Hearing
Wednesday 19 January 2022 – Thursday 27 January 2022**

Virtual Hearing

Name of registrant:	Jacqueline Ann Walker
NMC PIN:	05B0466S
Part(s) of the register:	Registered Nurse – Mental Health Nursing (March 2008)
Area of registered address:	West Lothian
Type of case:	Misconduct
Panel members:	John Vellacott (Chair, lay member) Frances Clarke (Registrant member) Bernard Herdan (Lay member)
Legal Assessor:	Hala Helmi
Hearings Coordinator:	Alice Byron
Nursing and Midwifery Council:	Represented by Sapandeep Maini-Thompson, Case Presenter
Mrs Walker:	Not present and unrepresented
Facts proved:	Charges 1(a), 1(b), 1(c), 1(d), 1(e)(i), 1(e)(ii), 1(f),1(g), 1(h), 1(i), 1(j)(i), 1(j)(ii), 1(k), 1(l), 1(m), 1(n)(i), 1(n)(ii), 1(n)(iii), 1(o), 1(p), 2(a)(i), 2(a)(ii), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g)(i), 2(g)(ii), 2(g)(iii), 2(h)(i), 2(h)(ii), 2(h)(iii), 5(a), 5(b), 5(c), 5(d), 5(g), 5(h), 5(i), 5(j), 5(k), 5(l), 5(m), 6, 7(a), 7(b), 7(d), 7(e), 7(f), 8(a), 8(b), 8(c), 8(d), 8(e), 8(f) and 8(g)
Facts not proved:	Charges 3(a), 3(b), 3(c), 3(d), 4(a), 4(b), 5(e), 5(f) and 7(c)
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Walker was not in attendance and that the Notice of Hearing letter had been sent to Mrs Walker's registered email address on 13 December 2021.

Mr Maini-Thompson, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegations, the time, dates and venue of the hearing and, amongst other things, information about Mrs Walker's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Walker has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Decision and reasons on proceeding in the absence of Mrs Walker

The panel next considered whether it should proceed in the absence of Mrs Walker. It had regard to Rule 21 and heard the submissions of Mr Maini-Thompson who invited the panel to continue in the absence of Mrs Walker.

Mr Maini-Thompson submitted that there had been no engagement at all by Mrs Walker with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*'.

The panel has decided to proceed in the absence of Mrs Walker. In reaching this decision, the panel has considered the submissions of Mr Maini-Thompson, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones (Anthony William)*_(No.2) [2002] UKHL and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Walker
- Mrs Walker has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- Mrs Walker has not provided the NMC with details of how she may be contacted other than her registered address;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- A witness has attended today to give live evidence, other witnesses are due to attend;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2019
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Walker in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email

address, she has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the disadvantage is the consequence of Mrs Walker's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Walker. The panel will draw no adverse inference from Mrs Walker's absence in its findings of fact.

Details of charges (as amended)

That you, a Registered Nurse:

- 1) Made one or more inappropriate comments in relation to residents in that you:
 - a) On one or more occasion, said to Resident A words to the effect of, "King Billy has Syphilis because he shagged a white horse" **[Proved]**
 - b) On one or more occasion asked Resident A "what's king billy got?" **[Proved]**
 - c) On one or more occasion wrapped a Celtic scarf around Resident A's neck **[Proved]**
 - d) On one or more occasion told Resident A you were going to buy them a Celtic top **[Proved]**
 - e) On one or more occasion said to Resident B words to the effect that you were going to:

- i) Go out with her husband **[Proved]**
 - ii) “shag him” **[Proved]**
- f) On one or more occasion told Resident B that you were going to have her husband’s babies. **[Proved]**
- g) Told Resident B that her husband would not visit her as he had another girlfriend. **[Proved]**
- h) On one or more occasion referred to Resident C as “Billy big balls” **[Proved]**
- i) On one or more occasions referred to Resident C as a “paedo” **[Proved]**
- j) On 24 October 2019:
- i) Asked Resident D if she wanted to see Resident C’s “willy” **[Proved]**
 - ii) Said words to the effect that Resident D and Resident C would make a lovely couple. **[Proved]**
- k) On one or more occasions said Resident D was a “tart” **[Proved]**
- l) On one or more occasions said words to the effect that Resident D is “always after the men” **[Proved]**
- m) On one or more occasion told Resident E her wheelchair had been given to gypsies for scrap metal **[Proved]**
- n) On one or more occasion said to Resident E words to the effect of:
- i) “you need a good shag” **[Proved]**
 - ii) “your dad is a gypsy” **[Proved]**
 - iii) “you’re a gypsy” **[Proved]**

o) Said to Resident F words to the effect of, "I'm from Glasgow and if you act like that again I'll kick the hell out of you" **[Proved]**

p) Referred to Resident F as "baby Resident F" **[Proved]**

2) Made one or more inappropriate comments in relation to colleagues in that you:

a) On one or more occasions, other than those specified in charges 2(b)-2(e), referred to Colleague W as:

i) a "dyke" **[Proved]**

ii) a lesbian **[Proved]**

b) On one or more occasion said word to the effect of, "you can tell Colleague W is a lesbian because of the way her hair was cut" **[Proved]**

c) Having coloured your hair, said words to the effect of, "I am Colleague W the dyke" **[Proved]**

d) Said to Colleague W words to the effect of, "Oh so this is how a lesbian dresses on their day off" **[Proved]**

e) Whilst Colleague W was serving food, said words to the effect of, "you don't want the dyke serving you" **[Proved]**

f) In around September 2019, when Colleague X entered the nursing station to ask for help, said words to the effect of, "Get the fuck out of the office" and "Colleague Y is doing my fucking work" **[Proved]**

g) In or around the week commencing 24 June 2019, in relation to a number of colleagues holding a meeting in your absence, said to Colleague Y word to the effect of:

- i) “you don’t run the show” **[Proved]**
- ii) “you have no right to organise a unit meeting” **[Proved]**
- iii) “you are all backstabbing bastards” **[Proved]**

h) Having read a statement prepared by Colleague Z, messaged her saying:

- i) “saw ur mail today surprised to say least Don’t worry though we will come out equal in the end” **[Proved]**
- ii) “I believe u tried to throw me under bus” **[Proved]**
- iii) “It’s ok girl u do what u need to do I just thought we were friends but its ok I have no vengeance with u at sll just love take care and watch ur back [sic]” **[Proved]**

3) Your actions and/or comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Resident A in relation to a protected characteristic, namely their actual or perceived religion:

- a) Charge 1(a) **[Not Proved]**
- b) Charge 1(b) **[Not Proved]**
- c) Charge 1(c) **[Not Proved]**
- d) Charge 1(d) **[Not Proved]**

4) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Resident E in relation to a protected characteristic, namely their actual or perceived race:

- a) Charge 1(n)(ii) **[Not Proved]**
- b) Charge 1(n)(iii) **[Not Proved]**

5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment

- a) Charge 1(e)(i) **[Proved]**
- b) Charge 1(e)(ii) **[Proved]**
- c) Charge 1(f) **[Proved]**
- d) Charge 1(g) **[Proved]**
- e) Charge 1(h) **[Not Proved]**
- f) Charge 1(i) **[Not Proved]**
- g) Charge 1(j)(i) **[Proved]**
- h) Charge 1(j)(ii) **[Proved]**
- i) Charge 1(k) **[Proved]**
- j) Charge 1(l) **[Proved]**
- k) Charge 1(m) **[Proved]**
- l) Charge 1(n)(i) **[Proved]**
- m) Charge 1(p) **[Proved]**

6) Your comments referred to in Charge 1(o) was intended to annoy and/or humiliate and/or upset and/or intimidate Resident F. **[Proved]**

7) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Colleague W in relation to a protected characteristic, namely their actual or perceived sexual orientation:

- a) Charge 2(a) **[Proved]**
- b) Charge 2(b)(i) **[Proved]**
- c) Charge 2(b)(ii) **[Not Proved]**
- d) Charge 2(c) **[Proved]**
- e) Charge 2(d) **[Proved]**
- f) Charge 2(e) **[Proved]**

8) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset and/or intimidate the subject of that comment

- a) Charge 2(f) **[Proved]**
- b) Charge 2(g)(i) **[Proved]**
- c) Charge 2(g)(ii) **[Proved]**
- d) Charge 2(g)(iii) **[Proved]**
- e) Charge 2(h)(i) **[Proved]**
- f) Charge 2(h)(ii) **[Proved]**
- g) Charge 2(h)(iii) **[Proved]**

AND in light of the above, your fitness to practise is impaired by reason of your misconduct

Decision and reasons on application to amend Charge 3

At the conclusion of Ms 1's evidence, the panel heard an application made by Mr Maini-Thompson, on behalf of the NMC, to amend the wording of charge 3.

The proposed amendment was to remove the element of the charge which relates to Resident A's actual or perceived religion. It was submitted by Mr Maini-Thompson that the proposed amendment would provide clarity and more accurately reflect the evidence.

Original Charge 3

3) Your actions and/or comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Resident A in relation to a protected characteristic, namely their actual or perceived religion:

- a) Charge 1(a)
- b) Charge 1(b)
- c) Charge 1(c)

d) Charge 1(d)

Proposed Amended Charge 3

3) Your actions and/or comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Resident A ~~in relation to a protected characteristic, namely their actual or perceived religion:~~

- a) Charge 1(a)
- b) Charge 1(b)
- c) Charge 1(c)
- d) Charge 1(d)

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment would result in unfairness to Mrs Walker. The panel noted that the charges as drafted have been served on Mrs Walker. The panel considered that, despite the fact that she has not engaged with the NMC process to this point, Mrs Walker is not in attendance, nor is she represented, to make submissions on Mr Maini-Thompson's application. It further noted Mrs Walker does not know that such an application has been made.

The panel considered that the removal of the requirement to prove the protected characteristic element of Charge 3 would make the charge easier to prove, which may prejudice Mrs Walker. The panel further noted that the NMC had not adduced all of its live witness evidence. The panel determined that it would prefer to hear from all of the NMC witnesses and decide from the evidence whether Charge 3 is proved in its current form.

Accordingly, the panel refused Mr Maini-Thompson's application to amend Charge 3.

Panel Decision to amend Charge 2h)

At the conclusion of the NMC case, the panel of its own volition amended Charge 2h).

The amendment was to correct an error in the drafting of the charge. It was agreed by the panel that the proposed amendment would accurately reflect the evidence.

Original Charge 2h)

2) Made one or more inappropriate comments in relation to colleagues in that you:

h) Having read a statement prepared by Colleague Z, messaged her saying:

- i) "saw your mail today surprised to say least Don't worry though we will come out equal in the end"
- ii) "I believe tried to throw me under bus"
- iii) "It's ok girl u do what u need to do I just thought we were friends but its ok I have no vengeance with u at sll just love take care and watch your back [sic]"

Amended Charge 2h)

2) Made one or more inappropriate comments in relation to colleagues in that you:

i) Having read a statement prepared by Colleague Z, messaged her saying:

- i) "saw **ur** mail today surprised to say least Don't worry though we will come out equal in the end"

ii) "I believe u tried to throw me under bus"

iii) "It's ok girl u do what u need to do I just thought we were friends but its ok I have no vengeance with u at sll just love take care and watch ur back [sic]"

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment was in the interest of justice. The panel was satisfied that there would be no prejudice to Mrs Walker and no injustice would be caused to either party by the amendment being allowed. It was therefore appropriate to make the amendment to ensure clarity and accuracy in respect of this charge.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Maini-Thompson on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mrs Walker.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Ms 1: Home Manager at Redmill Care Home at the time of the charges;
- Ms 2 (Colleague Y): Nursing Assistant at Redmill Care Home at the time of the charges.
- Ms 3 (Colleague W): Nursing Assistant at Redmill Care Home at the time of the charges.
- Ms 4 (Colleague Z): Care Assistant at Redmill Care Home at the time of the charges.
- Ms 5: Care Assistant at Redmill Care Home at the time of the charges.
- Ms 6: Wellbeing Coordinator at Redmill Care Home at the time of the charges.

The panel noted that there were references in the evidence to the employer's investigatory meetings with members of staff who were not witnesses at this hearing. The NMC did not rely on that part of the evidence and the panel did not take it into account in reaching its decision on facts.

Background

The charges arose whilst Mrs Walker was employed as a registered nurse by Redmill Care Home ('the Home') between October 2018 and November 2019.

It is alleged that throughout her employment at the Home, Mrs Walker made inappropriate comments and actions to and about vulnerable residents in her care, with the intention to annoy, humiliate, upset or intimidate the residents. It is further alleged that, in respect of Resident A and Resident E, that such comments and actions were

intended to annoy, humiliate or upset the Residents in relation to a protected characteristic, namely Resident A's actual or perceived religion, and Resident E's actual or perceived race.

It is alleged that, during the same period, Mrs Walker made inappropriate comments to and about her colleagues, with the intention to annoy, humiliate, upset or intimidate these colleagues. It is further alleged that, in respect of Colleague W, such comments were intended to annoy, humiliate and upset Colleague W in relation to a protected characteristic, namely Colleague W's actual or perceived sexual orientation.

The concerns were raised to the Manager at the Home on 1 November 2019. Mrs Walker was suspended from the Home and a local level investigation was carried out and completed on 7 November 2019. During this investigation, Mrs Walker largely denied the allegations and claimed the investigation to be a 'witch hunt'. She admitted to some of the allegations, however said that these comments were jokes which had been misinterpreted and described her actions as 'banter'. Mrs Walker resigned from the Home before any formal disciplinary action was taken against her by her employer and has not engaged with the NMC investigation.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC. The panel took into account, as advised by the legal assessor, that Mrs Walker is to be taken as a person of good character on the basis that she has not been the subject of any previous fitness to practise findings. Mrs Walker is entitled that the panel takes this into account when considering her credibility and propensity to act as alleged. While there are no submissions or evidence from her provided for this hearing, Mrs Walker was interviewed by her former employer and a non-verbatim record of her responses is in the evidence before the panel.

The panel then considered each of the disputed charges and made the following findings.

Charge 1 a)

1) Made one or more inappropriate comments in relation to residents in that you:

- a) On one or more occasion, said to Resident A words to the effect of, “King Billy has Syphilis because he shagged a white horse”

This charge is found proved.

In reaching this decision, the panel took into account all of the evidence adduced, and noted the witness statements of Ms 2, Ms 3 and Ms 6. The panel considered that these witnesses were clear and consistent in their accounts in respect of this charge. The panel therefore determined that, on the balance of probabilities, Mrs Walker used the words specified in the charge.

The panel considered this comment to be inappropriate. It heard evidence from Ms 2 and Ms 3 that it was repeated many times and the resident was upset by it. The panel determined that the language used by Mrs Walker was coarse and inappropriate for the workplace.

The panel therefore found this charge proved.

Charge 1 b)

1) Made one or more inappropriate comments in relation to residents in that you:

- b) On one or more occasion asked Resident A “what’s king billy got?”

This charge is found proved.

In reaching this decision, the panel noted the witness statement and live evidence given by Ms 2. The panel considered that Ms 2’s account in respect of this charge was clear in live evidence, and did not vary from the witness statement which she produced during

the NMC investigation. The panel therefore determined that, on the balance of probabilities, Mrs Walker used the words specified in the charge.

The panel heard live evidence from Ms 2 that this comment was made by Mrs Walker on multiple occasions to seek a response from Resident A. Ms 2 told the panel that Resident A would respond to this question, and say 'syphilis'. The panel considered this to be inappropriate on Mrs Walker's part. It considered the comment to be taunting Resident A in an attempt to coerce them into making an inappropriate statement. The panel heard that Resident A was a resident with complex needs, including a learning difficulty and dementia, and that it was unlikely that she understood the impact of the comment. The panel considered that this aggravated the seriousness of this charge, it concluded that Mrs Walker's actions were disrespectful and highly offensive, and that she demonstrated a lack of respect to the dignity of Resident A.

The panel therefore found this charge proved.

Charge 1 c)

1) Made one or more inappropriate comments in relation to residents in that you:

c) On one or more occasion wrapped a Celtic scarf around Resident A's neck

This charge is found proved.

In reaching this decision, the panel noted the witness statement and live evidence given by Ms 6. The panel took account of Ms 6's witness statement, in which they stated:

'The Registrant made it very well known that she was a Catholic and that she supported Celtic, whilst Resident A was a protestant who supported Rangers. There is a fierce football rivalry between Celtic and Rangers supporters in Scotland'

The panel considered Ms 6's account to be reliable and credible. The panel considered that Ms 6 was clear in her evidence and the information which she provided as to the football rivalry between Celtic and Rangers. The panel therefore determined that, on the balance of probabilities, Mrs Walker wrapped a Celtic scarf around Resident A's neck.

The panel considered Mrs Walker's actions to be inappropriate. It concluded that Mrs Walker wrapped the scarf around Resident A's neck as an attempt to taunt Resident A for being a supporter of Rangers Football Club. The panel considered this to be consistent with a pattern of bullying behaviour demonstrated by Mrs Walker towards Resident A.

The panel therefore found this charge proved.

Charge 1 d)

1) Made one or more inappropriate comments in relation to residents in that you:

- d) On one or more occasion told Resident A you were going to buy them a Celtic top.

This charge is found proved.

In reaching this decision, the panel noted the witness statement and live evidence given by Ms 6 as well as her investigatory interview with Ms 1.

The panel considered Ms 6's account to be reliable and credible. The panel considered that Ms 6 was clear in her evidence and the information which she provided as to the football rivalry between Celtic and Rangers. The panel therefore determined that, on the balance of probabilities, Mrs Walker told Resident A that she was going to buy them a Celtic top.

The panel considered this inappropriate and to be part of the same taunting and bullying behaviour as outlined above at Charge 1(c).

The panel therefore found this charge proved.

Charge 1 e)

1) Made one or more inappropriate comments in relation to residents in that you:

e) On one or more occasion said to Resident B words to the effect that you were going to:

- i) Go out with her husband
- ii) “shag him”

This charge is found proved.

In reaching this decision, the panel noted the live witness evidence of Ms 2 and Ms 4. It further noted the evidence contained within Ms 4’s statement, which states:

‘Around October 2019, I was in the communal lounge and I heard the Registrant say to Resident B that she was going to have sex with Resident B’s husband and have his kids. I recall Resident B did become quite upset by that comment.

The panel further noted the hearsay evidence contained within the same statement, which sets out:

Shortly after this, Resident B’s husband came to speak to us and told us that the Registrant’s comments had to stop as he said it was upsetting Resident B. I think the Registrant would make comments to Resident B when giving her medication, and her husband would also be present at this

time as he visited Resident B often. He said he could see she was becoming upset by the Registrant's comments.'

Whilst the panel gave the hearsay evidence relatively low evidential value, it considered it gave important contextual background to this matter. The panel determined that this evidence in its entirety was compelling and conclusive.

In their live evidence, the Ms 2 and Ms 4 clarified the terminology used by the Registrant being 'shag', as opposed to 'have sex with'. The panel therefore determined that, on the balance of probabilities, Mrs Walker told Resident B that she was going to go out with her husband and "shag him".

The panel considered these comments to be inappropriate, cruel and deliberate with the intention to upset Resident B. In making this decision, the panel took account of the witness statement of Ms 2, which set out that Ms 2 'consoled' Resident B after such comments were made, as well as the statement provided by Ms 4, which set out that Resident B would cry when such comments were made. It further had regard to the live evidence of Ms 2 and Ms 4 who described Resident B as upset by these comments.

The panel therefore found this charge proved.

Charge 1f)

- 1) Made one or more inappropriate comments in relation to residents in that you:
 - f) On one or more occasion told Resident B that you were going to have her husband's babies.

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 3, Ms 4 and Ms 6. The panel considered that these witnesses' statements and live evidence were consistent as

to this allegation. The panel therefore determined that, on the balance of probabilities, Mrs Walker told Resident B that she was going to have her husband's babies.

The panel considered that it would be inappropriate to make this comment to any patient. However, the panel heard evidence from Ms 3 that Resident B and her husband were unable to have children. In light of this, the panel considered that this comment was cruel and particularly inappropriate and was likely to cause upset to Resident B.

The panel therefore found this charge proved.

Charge 1g)

1) Made one or more inappropriate comments in relation to residents in that you:

g) Told Resident B that her husband would not visit her as he had another girlfriend.

This charge is found proved.

In reaching this decision, the panel noted the evidence which Ms 4 provided for the local level investigation. The panel concluded that Ms 4's account of this incident was clear and consistent with her oral evidence. The panel further considered the context of other inappropriate comments which Mrs Walker made to Resident B which have also been found proved. In light of this, the panel therefore determined that, on the balance of probabilities, Mrs Walker told Resident B that her husband would not visit her as he had another girlfriend.

The panel considered this to be inappropriate. It determined that, by making such comment, Mrs Walker was taunting Resident B who was a vulnerable resident and living apart from her husband.

The panel therefore found this charge proved.

Charge 1h)

1) Made one or more inappropriate comments in relation to residents in that you:

h) On one or more occasion referred to Resident C as “Billy big balls”

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 1, in which they stated that Mrs Walker admitted to making this comment in the local level investigation interview. The panel considered Ms 1’s evidence to be a reliable account of the local level investigatory interview with Mrs Walker. The panel therefore determined that, on the balance of probabilities, Mrs Walker had referred to Resident C as “Billy big balls”.

The panel considered this comment to be inappropriate. It had regard to Mrs Walker’s explanation of this comment in her local level investigation interview with Ms 1, in which Mrs Walker claimed that it was Resident C who initially referred to himself as “Billy big balls”. However, in their oral evidence, Ms 2 told the panel that Resident C did not refer to himself by this name. The panel considered the comment to be inappropriate. The panel considered Ms 2’s account of this allegation to be credible and concluded that Resident B did not refer to himself as “Billy big balls”. The panel concluded that this comment was inappropriate and derogatory towards Resident C.

The panel therefore found this charge proved.

Charge 1i)

1) Made one or more inappropriate comments in relation to residents in that you:

i) On one or more occasions referred to Resident C as a “paedo”

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 2 and Ms 4. In their witness statement, Ms 2 stated:

“Whenever the Registrant was doing her handover of Resident C she would call him “Billy big balls the paedophile. She would say this the majority of the time when she was handing him over to me”

The panel had further regard to Ms 4’s witness statement which stated:

“The Registrant would call Resident C a “paedo”. I heard the Registrant say this more than once, it was every time she spoke about him.”

The panel also considered Ms 1’s witness statement, in which they set out:

‘I interviewed Ms 4, a care assistant, on 5 November 2019. Ms 4 was another member of staff who reported that she had heard the Registrant refer to Resident C as “Billy big balls” and also that the Registrant had referred to him as “paedo”’

The panel concluded that multiple witnesses had provided credible and consistent evidence in respect of this charge. The panel therefore determined that, on the balance of probabilities, Mrs Walker had referred to Resident C as a “paedo”.

The panel went on to consider whether this comment was inappropriate. The panel had regard to Ms 4’s oral evidence. She said that Mrs Walker had told her that Resident C’s sister had told her that the Resident was a paedophile. Irrespective of this, the panel determined that it was wholly inappropriate for Mrs Walker to make such a comment in any circumstances, whether true or not. The panel considered this comment to be disrespectful and a potential breach of Resident C’s confidentiality.

The panel therefore found this charge proved.

Charge 1(j)(i)

1) Made one or more inappropriate comments in relation to residents in that you:

j) On 24 October 2019:

i) Asked Resident D if she wanted to see Resident C's "willy"

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 2 and Ms 5. In their witness statement, Ms 2 stated:

'... Resident D was sat with Resident C talking to him. The Registrant went over to Resident D and asked if she fancied Resident C and wanted to see his willy. She said it loudly enough for everyone in the room to hear'

The panel further noted Ms 5's statement referred to Mrs Walker making a remark about the size of Resident C's penis. The panel noted the difference in terminology used by Ms 2 and Ms 5, however found that, on the balance of probabilities, Mrs Walker had asked Resident D if she wanted to see Resident C's "willy".

The panel considered this comment to be inappropriate. It determined that such a comment would be insensitive in any event, however the panel had regard to Ms 5's evidence that Mrs Walker made this comment on the day of Resident D's husband's funeral. In light of this, the panel concluded that this comment was particularly inappropriate, unkind and tactless.

The panel therefore found this charge proved.

Charge 1(j)(ii)

1) Made one or more inappropriate comments in relation to residents in that you:

j) On 24 October 2019:

ii) Said words to the effect that Resident D and Resident C would make a lovely couple.

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 5. The panel noted that, within her witness statement, Ms 5 described the witness as saying to Resident C and Resident D that they would 'make a lovely couple'. The panel considered Ms 5 to be a clear and credible witness to this fact. The panel therefore determined that, on the balance of probabilities, Mrs Walker said words to the effect that Resident D and Resident C would make a lovely couple.

The panel further determined that this comment was inappropriate, unkind and tactless for the same reasons as outlined in respect of Charge 1(j)(i).

The panel therefore found this charge proved.

Charge 1(k)

1) Made one or more inappropriate comments in relation to residents in that you:

k) On one or more occasions said Resident D was a "tart"

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 4. The panel found Ms 4 provided clear evidence in respect of this allegation. It further considered that Ms 4's oral evidence was consistent with her witness statement and the

information which she provided to Ms 1 during her interview for the local level investigation. The panel therefore determined that, on the balance of probabilities, Mrs Walker said Resident D was a “tart”.

The panel next considered whether this comment was inappropriate. It had regard to Ms 4’s witness statement which states:

‘On multiple occasions I heard the Registrant call Resident D “tart” and she would say, “She’s always after the men”, referring to Resident D. I recall on one specific occasion, the Registrant said this to Resident D on the same day that Resident D’s husband was buried, and the Registrant called Resident D a tart in the communal area’

The panel considered that ‘tart’ is a derogatory term and therefore concluded that this was an inappropriate comment. The panel concluded that using such language on the evening of Resident D’s husband’s burial aggravated this matter as it was likely to cause further upset to Resident D.

The panel therefore found this charge proved.

Charge 1(I)

- 1) Made one or more inappropriate comments in relation to residents in that you:
 - l) On one or more occasions said words to the effect that Resident D is “always after the men”

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 4. The panel found Ms 4 provided clear evidence in her witness statement in respect of this allegation. It further considered that Ms 4’s oral evidence to be credible and consistent. The panel therefore

determined that, on the balance of probabilities, Mrs Walker said Resident D was “always after the men”.

The panel next considered whether this comment was inappropriate. It concluded that such language was inappropriate in a professional setting, and a breach of professional boundaries. The panel concluded that using such language on the evening of Resident D’s husband’s burial aggravated this matter as it was likely to cause further upset to Resident D.

The panel therefore found this charge proved.

Charge 1(m)

1) Made one or more inappropriate comments in relation to residents in that you:

m) On one or more occasion told Resident E her wheelchair had been given to gypsies for scrap metal

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 3 and Ms 4. It considered that these witnesses provided a consistent and credible account of the words used by Mrs Walker, and that she told Resident E that her wheelchair had been given to gypsies for scrap metal. The panel took account of the witness statement provided by Ms 1 in which she outlined that during the local level investigation Mrs Walker had admitted to making this comment on one occasion, and that it was a joke. The panel therefore determined that, on the balance of probabilities, Mrs Walker told Resident E that her wheelchair had been given to gypsies for scrap metal.

The panel next considered if this comment was inappropriate. It had regard to Mrs Walker’s admission and her explanation that this was a one-time joke. However, the panel heard consistent and credible oral evidence from Ms 3 that Resident E had mobility issues and was very possessive about her wheelchair. The panel accepted Ms

3's evidence that Resident E needed to know where her wheelchair was at all times as reassurance. In light of this, the panel considered the comment to be inappropriate as it was a deliberately cruel comment to make to a vulnerable resident. The panel considered that this comment, alongside other charges found proved, demonstrates a pattern of bullying of vulnerable residents by Mrs Walker for her own satisfaction.

The panel therefore found this charge proved.

Charge 1(n)(i)

1) Made one or more inappropriate comments in relation to residents in that you:

n) On one or more occasion said to Resident E words to the effect of:

(i) "you need a good shag"

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 6. It noted that Ms 6 provided a consistent account of what Mrs Walker had said to Resident E. In her oral evidence, Ms 6 confirmed that the word 'shag' was used in this context. The panel therefore determined that, on the balance of probabilities, Mrs Walker said to Resident E words to the effect of "you need a good shag".

The panel concluded that this comment was inappropriate. It determined that it would be inappropriate to use such coarse and offensive language towards any resident under a nurse's care.

Additionally, Ms 6 told the panel in her oral evidence that Resident E had never been married, following the death of her fiancé, possibly in the war. The panel considered Ms 6's evidence to be credible and consistent on the whole, and therefore considered this matter to aggravate the seriousness of the harm of the inappropriate comments made by Mrs Walker to Resident E, as they would likely upset the resident.

The panel therefore found this charge proved.

Charge 1(n)(ii) and Charge 1(n)(iii)

1) Made one or more inappropriate comments in relation to residents in that you:

n) On one or more occasion said to Resident E words to the effect of:

(ii) “your dad is a gypsy”

(iii) “you’re a gypsy”

These charges are found proved.

In reaching this decision, the panel noted that Ms 3 and Ms 4 were consistent and credible in describing these incidents within their respective witness statements and oral evidence. The panel therefore determined that, on the balance of probabilities, Mrs Walker said to Resident E words to the effect of “your dad is a gypsy” and “you’re a gypsy”.

The panel determined that these comments were inappropriate. It noted that there was no evidence before it that these comments were true, and considered that Mrs Walker made these comments as a deliberate attempt to speak in a derogatory manner towards Resident E. The panel considered that the use of the term gypsy in a pejorative sense would likely cause offense primarily to members of the travelling community, but also to members of the public outside of this community. The panel judged it to be an inappropriate comment, whether Resident E and/or her father were from the travelling community or not.

The panel therefore found this charge proved.

Charge 1(o)

1) Made one or more inappropriate comments in relation to residents in that you:

- o) Said to Resident F words to the effect of, “I’m from Glasgow and if you act like that again I’ll kick the hell out of you”

This charge is found proved.

In reaching this decision, the panel noted that Ms 5 provided consistent and credible evidence as to this charge. The panel further noted Ms 1’s evidence that Mrs Walker’s response to this allegation during the local level investigation meeting was that this comment was ‘banter’. The panel considered that Ms 1’s account of this meeting was reliable. The panel therefore determined that, on the balance of probabilities, Mrs Walker said words to the effect of, “I’m from Glasgow and if you act like that again I’ll kick the hell out of you”.

The panel considered this comment to be inappropriate. It concluded that such comment could not be considered as ‘banter’ in light of the threatening and bullying nature of the words used and the context. The panel heard evidence from Ms 5 that Resident F was vulnerable and had difficulties communicating as a result of Parkinson’s disease. The panel considered that this aggravated the seriousness of this charge, and, alongside other charges, forms a pattern of behaviour by Mrs Walker to victimise severely vulnerable residents.

The panel therefore found this charge proved.

Charge 1(p)

- 1) Made one or more inappropriate comments in relation to residents in that you:
 - p) Referred to Resident F as “baby Resident F”

This charge is found proved.

In reaching this decision, the panel noted that it had been provided with a contemporaneous record of Mrs Walker’s admission to making this comment in the local

level investigation meeting. The panel further noted that Ms 1 was present in this meeting and has provided a witness statement and gave oral evidence exhibited the record of the interview with Mrs Walker. The panel therefore determined that, on the balance of probabilities, Mrs Walker referred to Resident F as 'baby Resident F'.

The panel next considered whether this comment was inappropriate. The panel understood that 'Resident F' was the surname of Resident F. The panel noted that Mrs Walker told Ms 1 that the comment was a joke in relation to pushing Resident F in a wheelchair. The panel concluded that this explanation would still result in the comment being inappropriate, as registered nurses should not refer to adults as children. The panel concluded that by making such comment, Mrs Walker had not treated Resident F with respect.

The panel therefore found this charge proved.

Charge 2(a)(i)

2) Made one or more inappropriate comments in relation to colleagues in that you:

a) On one or more occasions, other than those specified in charges 2(b)-2(e), referred to Colleague W as:

i) a "dyke"

This charge is found proved.

In reaching this decision, the panel noted that Ms 2 provided credible oral evidence as to the circumstances of this comment being made over the course of several months. It further noted that Ms 2's oral evidence was consistent with the account which she gave to Ms 1 during the course of the local level investigation. The panel also heard oral evidence from Ms 3 who was the subject of this comment. It considered her account to be reliable and detailed. The panel noted that, in her local level investigation interview, Mrs Walker told Ms 1 that she had heard other members of staff call Colleague W a

'dyke', but did not use this term herself, the panel did not consider that this explanation as credible as it was inconsistent with Ms 2 and Ms 3's evidence. The panel therefore determined that, on the balance of probabilities, Mrs Walker referred to Colleague W as a 'dyke'.

The panel considered this comment to be inappropriate. The panel concluded that it is inappropriate for nurses to discuss the sexual orientation of their colleagues in the workplace. It further concluded that the term 'dyke' is inappropriate and widely accepted as derogatory, and it is likely that the registrant was aware of this.

The panel therefore found this charge proved.

Charge 2(a)(ii)

2) Made one or more inappropriate comments in relation to colleagues in that you:

- a) On one or more occasions, other than those specified in charges 2(b)-2(e), referred to Colleague W as:
 - i) a lesbian

This charge is found proved.

In reaching this decision, the panel noted the evidence as outlined in charge 2(a)(i). It further noted Ms 3's oral evidence that she had told Mrs Walker on many occasions that she is not a lesbian, and Ms 1's evidence that she had spoken to Mrs Walker about making similar comments about Colleague W prior to November 2019. It found these accounts to be credible. The panel therefore determined that, on the balance of probabilities, Mrs Walker referred to Colleague W as a lesbian.

The panel considered this comment to be inappropriate. The panel concluded that it is inappropriate for nurses to discuss the sexual orientation of their colleagues in the workplace in any circumstances. Additionally, the panel considered the persistent

nature of such name calling, including after Ms Walker had been told to desist, to be a deliberate act by the Registrant to bully and upset Colleague W.

The panel therefore found this charge proved.

Charge 2b)

2) Made one or more inappropriate comments in relation to colleagues in that you:

- b) On one or more occasion said word to the effect of, “you can tell Colleague W is a lesbian because of the way her hair was cut”

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 2. The panel found this evidence to be credible and consistent with the account which Ms 2 gave to Ms 1 for the investigation. The panel therefore determined that on the balance of probabilities, Mrs Walker said words to the effect of, “you can tell Colleague W is a lesbian because of the way her hair was cut”.

The panel determined that this comment was inappropriate. It considered that by making this comment, Mrs Walker had inappropriately a stereotyped Colleague W using her perception of how a lesbian may look. It considered this to be an inappropriate personal comment which was irrelevant to Mrs Walker’s role as a nurse at the Home. The panel concluded that this comment was offensive and upsetting to Colleague W, especially given that Mrs Walker had been asked to stop making such comments.

The panel therefore found this charge proved.

Charge 2c)

2) Made one or more inappropriate comments in relation to colleagues in that you:

- c) Having coloured your hair, said words to the effect of, “I am Colleague W the dyke”

This charge is found proved.

In reaching this decision, the panel noted the evidence of Ms 2. The panel found this evidence to be credible and consistent with the account which Ms 2 gave to Ms 1 for the investigation. The panel therefore determined that, on the balance of probabilities, Mrs Walker said words to the effect of “I am Colleague W the dyke”.

The panel concluded that this comment was inappropriate for the reasons outlined at charge 2(a)(i) and charge 2(b), that the comment was discriminatory in nature and advanced a stereotype of a lesbian which was offensive and upsetting to colleagues.

The panel therefore found this charge proved.

Charge 2d)

- 2) Made one or more inappropriate comments in relation to colleagues in that you:

- d) Said to Colleague W words to the effect of, “Oh so this is how a lesbian dresses on their day off”

This charge is found proved.

In reaching this decision, the panel noted the witness statement of Ms 3, which states:

‘On one particular occasion, I came into the Home for a staff meeting or a course. I was sat in the staff room with the Registrant and Colleague X. Colleague X left the staff room to go on her break, and at this point the Registrant said to me “so this is what a lesbian looks like outside of work”. I responded by telling the Registrant to “fuck off” after this, as I was becoming quite offended by the Registrant’s comments towards me.’

The panel considered Ms 3's account to be credible and consistent with the evidence of Ms 1. The panel therefore determined that, on the balance of probabilities, Mrs Walker said words to the effect of "Oh so this is how a lesbian dresses on their day off".

The panel determined that this comment was inappropriate as it is a further example of Mrs Walker inappropriately stereotyping lesbians which caused offence to Colleague W.

The panel therefore found this charge proved.

Charge 2e)

2) Made one or more inappropriate comments in relation to colleagues in that you:

- e) Whilst Colleague W was serving food, said words to the effect of, "you don't want the dyke serving you'

This charge is found proved.

In reaching this decision the panel noted the witness statement of Ms 3 was consistent with the oral evidence which she gave in respect of this incident. The panel considered the witness to be reliable. The panel found that this allegation is consistent with a pattern of bullying of Colleague W. The panel therefore determined that, on the balance of probabilities, Mrs Walker said words to the effect of "you don't want the dyke serving you".

The panel determined that this comment was inappropriate. It considered the fact that this was made in front of residents and aggravates the seriousness of this charge. The panel found that Mrs Walker inappropriately implied that a lesbian would be unsuitable to serve food. It further had regard to the live evidence of Ms 3, in which she said she felt picked on when this comment was made, and determined that this comment was made by Mrs Walker in the course of a wider pattern of bullying of Ms 3.

The panel therefore found this charge proved.

Charge 2f)

2) Made one or more inappropriate comments in relation to colleagues in that you:

- f) In around September 2019, when Colleague X entered the nursing station to ask for help, said words to the effect of, “Get the fuck out of the office” and “Colleague Y is doing my fucking work”

This charge is found proved.

In reaching this decision the panel noted the witness statement of Ms 2 was consistent with the oral evidence which she gave in respect of this incident. The panel therefore determined that, on the balance of probabilities, in around September 2019, when Colleague X entered the nursing station to ask for help, Mrs Walker said words to the effect of, “Get the fuck out of the office” and “Colleague Y is doing my fucking work”.

The panel determined that this comment was inappropriate. The panel concluded that request for help was reasonable, as she needed a second staff member to help put a resident to bed. However, even if it had not been reasonable, Mrs Walker’s response to such a request was rude, unprofessional and unwarranted.

The panel therefore found this charge proved.

Charge 2g)

2) Made one or more inappropriate comments in relation to colleagues in that you:

- g) In or around the week commencing 24 June 2019, in relation to a number of colleagues holding a meeting in your absence, said to Colleague Y word to the effect of:

- iv) “you don’t run the show”
- v) “you have no right to organise a unit meeting”
- vi) “you are all backstabbing bastards”

This charge is found proved.

In reaching this decision the panel noted the witness statement of Ms 2 was consistent with the oral evidence which she gave in respect of this incident and the pattern of bullying behaviour demonstrated by the Registrant. The panel was satisfied with Ms 2s account of the agenda of this meeting being that of a routine team meeting, and did not consider it unreasonable that such meeting was held in Mrs Walker’s absence whilst she was on annual leave. The panel was told that Mrs Walker tore the notice of the meeting from the noticeboard and shouted about it for around 10 minutes. The panel therefore determined that, on the balance of probabilities, Mrs Walker said words to the effect of those outlined at charge 2(g)(i)-(iii) to Colleague Y.

The panel considered these comments to be inappropriate, especially given Mrs Walker’s seniority at the Home. The panel considered that these comments were bullying Colleague Y.

The panel therefore found this charge proved.

Charge 2h)

2) Made one or more inappropriate comments in relation to colleagues in that you:

h) Having read a statement prepared by Colleague Z, messaged her saying:

- i) “saw ur mail today surprised to say least Don’t worry though we will come out equal in the end”
- ii) “I believe u tried to throw me under bus”

- iii) “It’s ok girl u do what u need to do I just thought we were friends but its ok I have no vengeance with u at sll just love take care and watch ur back [sic]”

This charge is found proved.

In reaching this decision, the panel had regard to the contemporaneous evidence. The panel had sight of the messages adduced by Ms 4. Ms 4 confirmed in her live evidence that she had received the messages, as drafted in the charge, from Mrs Walker. In light of this, the panel determined that, on the balance of probabilities, Mrs Walker sent the messages as charged at charge 2(h)(i) – (iii).

The panel considered these messages to be menacing and to contain a veiled threat towards Colleague Z, which is inappropriate.

The panel therefore found this charge proved.

Charge 3)

3) Your actions and/or comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Resident A in relation to a protected characteristic, namely their actual or perceived religion:

- a) Charge 1(a)
- b) Charge 1(b)
- c) Charge 1(c)
- d) Charge 1(d)

This charge is found NOT proved.

In reaching this decision, the panel had regard to the evidence of Ms 2 and Ms 6. The panel considered that these witnesses suggested that Mrs Walker’s actions at charges 1(a) – (d) had religious connotations. However, the panel concluded that, although religious connotations may be inferred, on the balance of probabilities such comments

were more likely intended to annoy and/or humiliate and/or upset Resident A in relation to her support of Rangers Football Club, rather than her protestant faith. The panel also noted that Mr Maini-Thompson made it clear that the NMC did not wish to pursue this charge.

The panel therefore found this charge not proved.

Charge 4)

4) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Resident E in relation to a protected characteristic, namely their actual or perceived race:

a) Charge 1(n)(ii)

b) Charge 1(n)(iii)

This charge is found NOT proved.

In reaching this decision, the panel had regard to the evidence of Ms 3, Ms 4 and Ms 6.

The panel considered that Mrs Walker's comments were pejorative, and offensive to the traveller community, and that the term 'gypsy' was likely used by Mrs Walker in a derogatory manner to annoy and/or upset and/or humiliate Resident E.

The panel did not hear any evidence that Resident E or her father was a 'gypsy' or that Mrs Walker thought that Resident E or her father was a 'gypsy'. In light of this, the panel concluded that on the balance of probabilities such comments were more likely intended to taunt and bully Resident E in a derogatory manner, rather than because of her actual or perceived race.

The panel therefore found this charge not proved.

Charges 5(a) – (b)

5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment

- a) Charge 1(e)(i)
- b) Charge 1(e)(ii)

These charges are found proved.

The panel had regard to the evidence Ms 2 and Ms 4, who the panel found to be consistent in their account of the impact which these comments had on Resident B.

The panel considered that Resident B was likely to be both annoyed and upset by these comments, for the reasons stated above at Charge 1e). The panel considered that it was also likely humiliating for Resident B for it to be suggested that her husband would have another girlfriend, or that he would 'shag' Mrs Walker. The panel heard evidence that these comments were very upsetting for Resident B, and that Mrs Walker knew this. The panel determined that, on the balance of probabilities, Mrs Walker made the comments detailed at Charge 1(e)(i) – (ii) with the intention to annoy, humiliate and upset Resident B. The panel therefore found these charges proved.

Charges 5(c) – (d)

5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment

- c) Charge 1(f)
- d) Charge 1(g)

These charges are found proved.

The panel had regard to the evidence of Ms 3, Ms 4 and Ms 6, who the panel found to be consistent in their account of the impact which these comments had on Resident B.

The panel considered that Resident B was likely both annoyed and upset by these comments, for the reasons stated above at Charges 1(f) –(g). The panel determined that Mrs Walker was likely taunting and humiliating Resident B as she had been unable to have children of her own, a fact which Mrs Walker was aware of. The panel noted that these comments persisted after the Registrant had been made aware that Resident B found these comments to be upsetting.

The panel considered that Mrs Walker’s comments amounted to systematic bullying of Resident B. The panel determined that, on the balance of probabilities, Mrs Walker made the comments detailed at Charges 1(f) – (g) with the intention to annoy, humiliate and upset Resident B.

The panel therefore found these charges proved.

Charges 5(e) – (f)

- 5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment
- e) Charge 1(h)
 - f) Charge 1(i)

These charges are found NOT proved.

The panel had regard to the evidence of Ms 2 and Ms 4, who the panel found to be consistent in their account of the nature of these comments.

The panel considered that the comments detailed at Charges 1(h) – (i) were annoying, humiliating and upsetting, in that they related to inappropriate and derogatory comments made in respect of a vulnerable resident. However, these comments were not made to Resident C, and the panel considered that there was inadequate evidence before it that it could find, on the balance of probabilities, that Resident C heard these comments. In light of this, the panel did not consider that Mrs Walker made the comments detailed at Charges 1(h) – (i) with the intention to annoy, humiliate and upset Resident C.

The panel therefore found these charges not proved.

Charge 5(g)

5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment

g) Charge 1(j)(i)

This charge is found proved.

The panel had regard to the evidence of Ms 2 and Ms 5, who the panel found to be consistent in their account of the impact which these comments had on Resident D.

The panel considered that the circumstances in which the comment detailed at Charge 1(j)(i) was made, and had particular regard to the fact Resident D had buried her husband on the day which the comment was made. The panel heard evidence that Resident C was upset by this comment, and noted the witness statement of Ms 2 which states:

'The Registrant went over to Resident D and asked if she fancied Resident C and wanted to see his willy. She said it loudly enough for everyone in the room to hear.

Resident C just laughed, he did not really understand what had just happened with Resident D and her husband. Resident D was upset as she had just buried her husband, she was crying and started shouting at the Registrant'

The panel considered Ms 2 provided a clear account and her oral evidence was consistent with that contained in her witness statement. In light of this, the panel noted that Resident D was likely annoyed and humiliated by Mrs Walker's comment as

detailed at Charge 1(j)(i), and it had heard clear evidence that she was upset by this comment.

The panel determined that, on the balance of probabilities, Mrs Walker made the comments detailed at Charge 1(j)(i) with the intention to annoy, humiliate and upset Resident D.

The panel therefore found this charge proved.

Charge 5(h)

- 5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment
- h) Charge 1(j)(ii)

This charge is found proved.

The panel had regard to the evidence of Ms 2 and Ms 5, who the panel found to be consistent in their account of the impact which these comments had on Resident D.

The panel considered that the circumstances in which the comment detailed at Charge 1(j)(ii) was made, and had particular regard to Resident D's emotional vulnerability on the day which the comment was made. The panel did not consider that this comment was annoying or humiliating in nature, however concluded that it was likely upsetting as it was made on the day of Resident D's husband's burial, a fact which the Registrant was likely aware of.

The panel determined that, on the balance of probabilities, Mrs Walker made the comments detailed at Charge 1(j)(ii) with the intention to upset Resident D.

The panel therefore found this charge proved.

Charges 5(i) – (j)

- 5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment
- i) Charge 1(k)
 - j) Charge 1(l)

This charge is found proved.

The panel had regard to the evidence of Ms 4, who the panel found to be reliable in her account of the impact which these comments had on Resident D, including that one such comment, as outlined at Charge 1(l), was made on the day of Resident D's husband burial.

The panel determined that, on the balance of probabilities, Mrs Walker had no other reason to make such comments as detailed at Charges 1(k) – (l), other than the intention to upset Resident D.

The panel therefore found these charges proved.

Charge 5k)

- 5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment
- k) Charge 1(m)

This charge is found proved.

The panel had regard to the evidence of Ms 4, who the panel found to be reliable in her account of the impact which these comments had on Resident E.

The panel noted that Mrs Walker was likely aware that Resident E had an attachment to her wheelchair due to her mobility issues, and would become distressed if she thought that her wheelchair would be taken away from her. The panel determined that, on the

balance of probabilities, Mrs Walker knew about this and had no other motivation to make such comments as detailed at Charge 1(m), other than the intention to upset Resident D.

The panel therefore found this charge proved.

Charge 5l)

- 5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment
- l) Charge 1(n)(i)

This charge is found proved.

The panel had regard to the evidence of Ms 6, who the panel found to be reliable in her account of the impact which these comments had on Resident E. The panel noted Ms 6's oral evidence accorded with her witness statement, which stated:

'The Registrant would also upset another resident, Resident E. Resident E has never been married, and the Registrant would say to her, "You need a good shag". I felt the Registrant should not be saying things of this nature to residents, and her comments would really upset Resident E, who would cry. Resident E would say "How dare you talk to me like that".'

The panel considered that the comments, as outlined at Charge 1(n)(i) were deliberately made by Mrs Walker to distress Resident E. In light of this, the panel determined that, on the balance of probabilities, Mrs Walker had no other motivation to make such comments as detailed at Charge 1(m), other than the intention to annoy and upset Resident E.

The panel therefore found this charge proved.

Charge 5m)

- 5) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset the subject of that comment
- m) Charge 1(p)

This charge is found proved.

The panel had regard to the oral evidence of Ms 6, who told the panel that Mrs Walker had a tendency to 'pick on' vulnerable residents. The panel found this evidence to be credible and reliable and be consistent with an intentional pattern of the Registrant to bully vulnerable residents in her care.

In light of this, the panel determined that, on the balance of probabilities, Mrs Walker had no other motivation to make such comments as detailed at Charge 1(p), other than the intention to annoy and upset Resident E.

The panel therefore found this charge proved.

Charge 6)

- 6) Your comments referred to in Charge 1(o) was intended to annoy and/or humiliate and/or upset and/or intimidate Resident F.

This charge is found proved.

The panel had regard to the evidence of Ms 4, who the panel found to be reliable in her account of the circumstances in which these comments were made.

The panel noted that the comment was brutal, aggressive and threatening, and were highly likely to intimidate Resident F. It considered that this comment demonstrated an insight into Mrs Walker's reaction to any challenge to her authority and was consistent with the pattern of bullying which the panel have found in multiple charges.

In light of this, the panel determined that, on the balance of probabilities, Mrs Walker had no other motivation to make such comments as detailed at Charge 1(o), other than the intention to annoy upset and intimidate Resident F.

The panel therefore found this charge proved.

Charge 7a)

7) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Colleague W in relation to a protected characteristic, namely their actual or perceived sexual orientation:

a) Charge 2(a)

This charge is found proved.

The panel had regard to the evidence of Ms 3, who gave evidence as to the impact which the comments detailed at Charge 2(a)(i) – (ii) had on her.

Ms 3 told the panel that she found the comments outlined at Charge 2(a) to be offensive to her as she is not a lesbian. The panel also judged that the term ‘dyke’ was used in a derogatory and offensive way. Ms 3 further outlined that she told Mrs Walker on several occasions that she was not a lesbian, however she continued to taunt her, and make inappropriate and offensive comments. Ms 3 told the panel that she did not want to go into work if she knew that Mrs Walker was the nurse in charge of the shift. The panel considered Ms 3’s evidence to be credible and reliable.

The panel noted that Mrs Walker knew that Colleague W is not a lesbian as she had told her this repeatedly. However, the panel considered, that due to the repetition of such comments as detailed at charge 2(a)(i) –(ii) it is likely that on the balance of probabilities that Mrs Walker perceived Colleague W to be a lesbian. In light of this, the panel determined that, on the balance of probabilities, Mrs Walker made such comments as detailed at Charge 2(a)(i) – (ii) , with the intention to annoy, humiliate and upset Colleague W in respect of her perceived sexual orientation.

The panel therefore found this charge proved.

Charge 7b)

7) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Colleague W in relation to a protected characteristic, namely their actual or perceived sexual orientation:

b) Charge 2(b)(i)

This charge is found proved.

The panel noted an error in this charge as drafted, and took the reference to Charge 2(b)(i) to refer to Charge 2(b).

The panel had regard to the evidence of Ms 2, who gave evidence as to the circumstances in which the comments detailed at Charge 2(b) were made. The panel found Ms 2 to be a reliable and credible witness.

The panel noted that Mrs Walker knew that Colleague W is not a lesbian as she had been told this repeatedly by Colleague W and Ms 1. However, the panel considered, that due to the repetition of the comments as detailed at charge 2(b), in both the presence and absence of colleague W, it is likely that on the balance of probabilities that Mrs Walker perceived Colleague W to be a lesbian. In light of this, the panel determined that, on the balance of probabilities, Mrs Walker made such comments as detailed at Charge 2(b) with the intention to annoy, humiliate and upset Colleague W in respect of her perceived sexual orientation.

Charge 7c)

7) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Colleague W in relation to a protected characteristic, namely their actual or perceived sexual orientation:

c) Charge 2(b)(ii)

This charge is found not proved.

The panel noted an error in this charge as drafted, as there is no charge 2(b)(ii) brought against Ms Walker. The panel did not consider this charge.

Charges 7(d) – (f)

7) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset Colleague W in relation to a protected characteristic, namely their actual or perceived sexual orientation:

d) Charge 2(c)

e) Charge 2(d)

f) Charge 2(e)

These charges are found proved.

The panel had regard to the evidence of Ms 3, who gave evidence as to the impact which the comments detailed at Charges 2(c) – (e) had on her.

Ms 3 told the panel that she found the comments outlined at Charges 2(c) – (e) to be offensive to her as she is not a lesbian. Ms 3 further outlined that she told Mrs Walker on several occasions that she was not a lesbian, however she continued to taunt her, and make inappropriate and offensive comments. Ms 3 told the panel that she did not want to go into work if she knew that Mrs Walker was the nurse in charge of the shift. The panel considered Ms 3's evidence to be credible and reliable.

The panel noted that Mrs Walker knew that Colleague W is not a lesbian as she had told her this repeatedly. However, the panel considered, that due to the repetition of such comments as detailed at charges 2(c) – (e) it is likely that on the balance of

probabilities that Mrs Walker perceived Colleague W to be a lesbian. In light of this, the panel determined that, on the balance of probabilities, Mrs Walker made such comments as detailed at Charge 2(c) – (e), with the intention to annoy, humiliate and upset Colleague W in respect of her perceived sexual orientation.

The panel therefore found this charge proved.

Charge 8a)

8) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset and/or intimidate the subject of that comment

a) Charge 2(f)

This charge is found proved.

The panel had regard to the evidence of Ms 2, who the panel found to be reliable in her account of the circumstances in which these comments were made.

The panel considered that the language used by Mrs Walker in this incident was offensive and wholly incompatible with the accepted standard of that of a registered nurse. The panel noted that Mrs Walker swore at her colleague, which it considered to be offensive and intimidating. In light of this, the panel determined that, on the balance of probabilities, Mrs Walker made such comments as detailed at Charge 2(f), with the intention to annoy and intimidate.

The panel therefore found this charge proved.

Charges 8(b) – (d)

8) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset and/or intimidate the subject of that comment

b) Charge 2(g)(i)

- c) Charge 2(g)(ii)
- d) Charge 2(g)(iii)

This charge is found proved.

The panel had regard to the evidence of Ms 2, who gave evidence as to the impact which the comments detailed at Charges 2(g)(i) – (iii) had on her. The panel noted Ms 3's written statement, which set out:

'Myself, Colleague X and Ms 3 decided to have a unit meeting on 21 June 2019 (for the frail an elderly unit) to get things back up to where they were. The Registrant was away on two weeks annual leave at the time so we had no way to contact her about our meeting.

I think it was the following week, when the Registrant returned to work, there was a paper note of the unit meeting on the wall. The Registrant was furious as she was the nurse in charge, and she started shouting at me in the nursing station. She was shouting at me that we don't run the show, she does, we had no right to organise a unit meeting, and that we were all backstabbing bastards. I did say that she was away at the time, but there was no point as she was shouting at me for about 10 minutes.

I felt very on edge, I did not want to be working with her. Every time I came on shift afterwards, I felt as though I was going to be sick. [...]

I spoke to Ms 1 the next day about this, and she said that she was going to speak to the Registrant about this, but I told her not to, because I thought that the Registrant would make my life hell if she did.'

The panel considered Ms 2's evidence to be credible, and her oral evidence to be consistent with her witness statement.

The panel noted that there were no other members of staff present at this incident, however noted that Ms 2 would likely feel humiliated by being shouted at in such a manner for such a length of time, whether her colleagues were present or not. The panel further noted that Witness 2 gave evidence that actual upset and intimidation resulted from this incident.

In light of the above, the panel determined that, on the balance of probabilities, Mrs Walker made such comments as detailed at Charge 2(g)(i) – (iii), with the intention to annoy, humiliate, upset and intimidate Colleague Y.

The panel therefore found these charges proved.

Charges 8(e)-(g)

- 8) Your comments referred to in the following charges were intended to annoy and/or humiliate and/or upset and/or intimidate the subject of that comment
- e) Charge 2(h)(i)
 - f) Charge 2(h)(ii)
 - g) Charge 2(h)(iii)

The panel had regard to the evidence of Ms 4, who gave evidence as to the impact which the comments detailed at Charges 2(h)(i) – (iii) had on her. Ms 4 told the panel that these comments made her feel on edge, and was anxious that Mrs Walker would say or do something to her if she saw her out and about.

The panel considered the oral evidence of Ms 4 to be credible.

The panel concluded that Colleague Z would be intimidated and upset upon receiving the threatening messages as detailed at Charge 2(h)(i) – (iii). The panel therefore determined that, on the balance of probabilities, Mrs Walker made these comments with the intention to upset and intimidate Colleague Z.

The panel therefore found these charges proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Walker's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mrs Walker's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'. The panel was aware that misconduct for these purposes must be serious.

Mr Maini-Thompson invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code) in making its decision.

Mr Maini-Thompson identified the specific, relevant standards where Mrs Walker's actions amounted to misconduct. Mr Maini-Thompson submitted that all the charges found proved demonstrate a failure by Mrs Walker to treat people as individuals and uphold their dignity. He further said that, by making inappropriate comments on a routine basis, Mrs Walker failed to treat people with kindness, respect and compassion.

In light of the panel having found Charges 2, 7(a) – (b), 7(d) – (f) and 8 proved, Mr Maini-Thompson submitted that Mrs Walker failed to work cooperatively. He told the panel that by making inappropriate comments on a routine basis, Mrs Walker failed to maintain effective communication with her colleagues. He described the comments as 'antagonistic' and not conducive to cooperative workplace relations. He further submitted that making comments with the intention to humiliate Colleague W on grounds of her actual or perceived sexual orientation amounts to bullying. He told the panel that making comments with the intention to annoy, humiliate, upset and/or intimidate Colleagues X, Y and Z is actively detrimental to workplace cooperation and effective communication.

Mr Maini-Thompson outlined that, in light of the panel having found Charge 1, Charge 5(a)-(d) and (g)-(m) and Charge 6 proved, Mrs Walker has failed to treat people fairly. He said that she has persistently harassed residents at the Home and taken advantage of their vulnerability to cause them upset and distress.

Mr Maini-Thompson further submitted that, in light of the panel having found Charge 2, Charge 7(a)-(b) and (d)-(f) and Charge 8 proved, he submitted that Mrs Walker has failed to act with integrity and treat people without discrimination, bullying and harassment.

Submissions on impairment

Mr Maini-Thompson moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This

included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body.

Mr Maini-Thompson submitted that by reason of her misconduct, Mrs Walker's fitness to practice is impaired. He described the Registrant's conduct as harmful to both the wellbeing of those in her care and her colleagues and stated that it would place others at risk of harm if repeated.

He further submitted that, as a registered nurse, Mrs Walker is currently a risk to the health, safety or wellbeing of the public. He said that by reason of her misconduct, her continued practice would diminish public confidence and professional standards.

Mr Maini-Thompson addressed the panel on the aggravating factors in this matter which impact upon a panel's finding of impairment. He told the panel that Mrs Walker's repeated misconduct over the course of her employment between October 2018 and November 2019 is a significant aggravating factor in this case. He further outlined that the fact that the bullying of Colleague W continued even after an intervention from the Home Manager additionally demonstrates significant disregard for professional conduct. He told the panel that the absence of any evidence of remediation from the Registrant also increases the risk of repetition.

He submitted that Mrs Walker has no mitigating circumstances. He told the panel that some of the witnesses in this case have suggested that there was a humorous culture between residents and staff at the Home, however, the Registrant's emotional disregard for the well-being of both the residents in her care and her colleagues does not constitute a "joke" or "banter" as alleged.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311 and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Mrs Walker's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Walker's actions amounted to a breach of the Code. Specifically:

1 – Treat people as individuals and uphold their dignity

1.1 treat people with kindness respect and compassion

8 - Work cooperatively

8.2 maintain effective communication with colleagues

20 – Uphold the reputation of your profession at all times

To achieve this you must:

20.1 keep to and uphold the standards and values set out in the Code

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mrs Walker's breaches of the code were so serious and repeated for a period of a year, such breaches did result in a finding of misconduct.

The panel considered each charge in turn. It concluded that each charge found proved amounted to serious misconduct individually as a standalone charge. The panel considered that, although some charges clearly amount to serious misconduct as drafted, other comments made by the Registrant if taken at face value may not appear

to amount to misconduct, for example offering to buy Resident A a Celtic top or wrapping a Celtic scarf around Resident A's neck. However, the panel concluded that, in the context of the circumstances of these comments and actions, the intention of the Registrant and vulnerabilities of the residents in her care, all such charges do amount to serious misconduct.

The panel considered the charges were underpinned by a theme of Mrs Walker acting inappropriately by seeking out actual and perceived vulnerabilities in residents and colleagues, and taking advantage of these vulnerabilities in a deliberate attempt to cause emotional distress to the subject of such comments. The panel concluded that Mrs Walker had fostered a culture of fear and intimidation at the Home by abusing her position of authority as the nurse in charge of the shift. It judged her actions to be wholly inappropriate and a poor example to junior colleagues for whom Mrs Walker was responsible. In light of the above, the panel determined that the charges taken collectively also amounted to serious misconduct.

The panel found that Mrs Walker's actions did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Walker's fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2)*

and Grant [2011] EWHC 927 (Admin) in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- 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 brought 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*

'

The panel finds that residents were put at risk and were caused emotional harm as a result of Mrs Walker's misconduct. The panel judged that Mrs Walker's conduct was

such as to bring the nursing profession into disrepute, and members of the public would have been horrified if they had witnessed her behaviour. Mrs Walker's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute and risked undermining public trust in the profession.

Regarding insight, the panel considered that Mrs Walker has not engaged with the NMC investigation and has not provided any material for the purpose of this hearing which may demonstrate her insight. It noted that Mrs Walker had accepted some of the allegations in her investigation interview with her former employer, however, she downplayed her actions as 'jokes' and 'banter'. The panel attached limited value to this acceptance and did not consider that it amounted to insight, as it did not provide any insight into the effects of her actions on the residents in her care, or her colleagues.

The panel determined that Mrs Walker further failed to demonstrate remorse. For example, it noted that when, upon being asked to desist from taunting residents by her colleagues and being asked to stop taunting Colleague W by both her colleagues and manager, Mrs Walker continued to bully those affected. It also noted that Mrs Walker did not show genuine remorse for the impact of her actions, and minimised it as 'banter'.

The panel is of the view that there is a real risk of repetition based on the deep seated attitudinal issues which Mrs Walker displayed whilst working at the Home. The panel considered that Mrs Walker's behaviour was that of a bully to both residents and colleagues which continues to present a risk to patients and the public. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because of Mrs Walker's continued and repeated misconduct, and her disregard of her duty of professional conduct. The panel noted that Mrs Walker was the nurse in charge and should have been setting high standards to her junior colleagues. It considered that the public would be concerned that, on the basis of the facts found proved, if it were to learn that Mrs Walker's fitness to practise was not found to be currently impaired,

In addition, the panel concluded that public confidence in the profession and the need to uphold proper standards of conduct and behaviour would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Walker's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Walker's fitness to practise is currently impaired on the basis of both the public protection and public interest grounds identified.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Walker off the register. The effect of this order is that the NMC register will show that Mrs Walker has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Maini-Thompson submitted that the most appropriate sanction is an order striking Mrs Walker off the register.

Mr Maini-Thompson submitted that a strike-off order is necessary to maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. He told the panel that such a sanction is necessary because Mrs Walker has failed to remediate her conduct, has failed to comply with the NMC investigation and has shown no remorse. Accordingly Mr Maini-Thompson submitted there is a high likelihood of repetition of the conduct found proved.

Decision and reasons on sanction

Having found Mrs Walker's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Sustained incidents of bullying over a long period of time
- Repeated episodes of bullying colleagues and vulnerable residents which continued after being told to desist by colleagues and management
- Evidence of actual distress and upset caused to residents due to Mrs Walker's conduct
- Conduct which put patients at risk of suffering psychological harm
- Lack of engagement with the NMC
- Lack of insight into failings
- Abuse of a position of trust as the nurse in charge

The panel also took into account the following mitigating features:

- Partial admissions made by Mrs Walker at the local level investigation.

The panel noted that Mrs Walker was of previous good character with no previous regulatory findings in respect of her fitness to practise and took this into account when considering sanction.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action nor would it protect the public.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Walker's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Walker's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Walker's registration would be a sufficient and appropriate response. The panel is of the view that there are no appropriate, practical or workable conditions that could be formulated, given the nature of the charges in this case. The panel considered that the charges related to matters of ingrained attitudinal issues and bullying behaviour which was not something that can be addressed through conditions such as requiring Mrs Walker to work under close supervision or undergoing retraining. The panel further noted that Mrs Walker has not provided the panel with any evidence of insight or remediation, nor has she engaged with the NMC regulatory process. Therefore the panel could not be satisfied that, even if workable conditions could be formulated, Mrs Walker would comply with a conditions of practice order. Furthermore, the panel concluded that the placing of conditions on Mrs Walker's registration would not adequately address the seriousness of this case and would not protect the public or satisfy the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel did not consider any of the aforementioned factors to be relevant to this case. The panel found that the misconduct was sustained over a period of around a year and to be repeated on numerous occasions. The panel concluded that this conduct appeared to be motivated by a satisfaction that the Registrant derived from bullying and humiliating colleagues and vulnerable residents, which the panel judged as a deep-seated attitudinal issue. It noted that Mrs Walker has not provided any insight which would reduce the risk of repetition of such conduct in the future.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Walker's actions is fundamentally incompatible with Mrs Walker remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction and will not be sufficient to protect the public and satisfy the public interest.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*

- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mrs Walker's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mrs Walker's actions were serious and to allow her to continue practising would put patients and residents at a real risk of harm as well as undermining public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mrs Walker's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel has noted that as a result of this order Mrs Walker may be caused financial hardship. However, in applying the principle of proportionality, the panel determined that, in any event, the need to protect the public and the wider public interest outweighed Mrs Walker's interest in this regard.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mrs Walker in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Walker's own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Mr Maini-Thompson. He invited the panel to impose an interim suspension order for a period of 18 months to satisfy the public protection and public interests grounds identified, pending any appeal of the substantive order that Mrs Walker may make.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to ensure that an order is in place in case Mrs Walker appeals this decision.

If no appeal is made, then the interim suspension order will be replaced by the striking off order 28 days after Mrs Walker is served the decision of this hearing in writing.

That concludes this determination.