

PUBLIC RECORD

Dates: 02/01/2024 - 03/01/2024

Medical Practitioner's name: Dr David WALKER

GMC reference number: 7562090

Primary medical qualification: MB ChB 2017 University of Leicester

Type of case	Outcome on facts	Outcome on impairment
New - Conviction	Facts relevant to impairment found proved	Impaired

Summary of outcome

Erasure
Immediate order imposed

Tribunal:

Legally Qualified Chair:	Mr Angus Macpherson
Lay Tribunal Member:	Ms Marianne O'Kane
Medical Tribunal Member:	Dr Bridget Langham
Tribunal Clerk:	Miss Emma Saunders

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Ms Kathryn Johnson, Counsel, instructed by Mortons Solicitors
GMC Representative:	Mr Edmund Potts, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 02/01/2024

FACTS

Background

1. Dr Walker qualified in 2017 from the University of Leicester, having previously trained to be a nurse at Manchester University from 2006 to 2009. Prior to the events which are the subject of the hearing, Dr Walker worked in a range of departments including Colorectal, Cardiology, Urology and Psychiatry at Wirral University Teaching Hospital from August 2017 to August 2019. At the time of the events in question, and since August 2019, Dr Walker was working in North Liverpool as a General Practitioner (GP) Registrar. He worked in Care of the Elderly, General Practice, Accident & Emergency and Obstetrics & Gynaecology as part of his GP training, and held this role until September 2022.

2. The allegations that have led to Dr Walker's hearing relate to his conduct in 2021 which led to his conviction for two offences. It is alleged by the General Medical Council (GMC) that Dr Walker was convicted of the following offences:

- a. contrary to s.15A of the Sexual Offences Act 2003, between 7 July 2021 and 4 August 2021, being a person aged 18 or over for the purpose of obtaining sexual gratification you intentionally attempted to communicate with a girl under 16, namely 12 years old, the communication being sexual;
- b. contrary to s.8 Sexual Offences Act 2003, between the 7 July 2021 and the 15 July 2021, being a person aged 18 or over you intentionally attempted to cause or incite a girl under the age of 13, namely 12, to engage in sexual activity.

3. In 2021 the Yorkshire & Humber Regional Organised Crime Unit received information suggesting that Dr Walker had been communicating online, and in a sexual manner, with an undercover officer who was purporting to be a 12 year old girl called “Ellie”.
4. A warrant was obtained for a search of Dr Walker's home address, which was executed on 3 September 2021 by Police Constable (PC) A and PC B. Dr Walker was arrested and interviewed under caution at St Anne Street Police Station in Liverpool on that same day. Dr Walker answered “no comment” to all substantive questions.
5. Following the search, Dr Walker’s electronic devices were seized and forensically analysed. Dr Walker had registered an account on 8 July 2021 with the application “Kik”, which is an online messaging application. He had briefly joined a group chat entitled “UK Teens to 25” and then sent an unsolicited direct message to an account which had the username “Ellie”, which was in fact being operated by the undercover officer.
6. Dr Walker asked how old she was, to which she replied that she was 12 years old. The conversation quickly took on an overtly sexual nature at Dr Walker’s instigation, this included Dr Walker saying that she was pretty, asking for a picture, telling her he would kiss her, and telling her that she would be “great in bed in a few years”. Dr Walker continued to send messages on 8, 9, 12, 13 and 14 July 2021.
7. Further analysis of the device showed that Dr Walker’s phone had registered with a yahoo.com email address (which belonged to Dr Walker), which in itself utilized his nhs.net email address as an account recovery option. The username used by Dr Walker was found to have accessed the online “Kik” service at his home address, at XXX home address, and at the Ormskirk & District General Hospital where Dr Walker had been on placement during his training.
8. Dr Walker was subsequently charged with the offences listed above. No pleas were entered at Dr Walker’s first appearance before the Magistrates’ Court. He entered guilty pleas on 24 May 2023 at Liverpool Crown Court and was sentenced there by Mr Recorder Harris on 24 July 2023. He was sentenced to 24 months imprisonment suspended for two years with a requirement to participate in the Horizon Programme for 35 sessions, comply with a Rehabilitation activity; also a Sexual Harm Prevention Order and Sex Offenders notification requirement for five years.

The Allegation and the Doctor’s Response

9. The Allegation made against Dr Walker is as follows:

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

1. On 24 May 2023 at Liverpool Crown Court you were convicted of the following offences:

a. contrary to s.15A of the Sexual Offences Act 2003, between 7 July 2021 and 4 August 2021, being a person aged 18 or over for the purpose of obtaining sexual gratification you intentionally attempted to communicate with a girl under 16, namely 12 years old, the communication being sexual;
Admitted and found proved

b. contrary to s.8 Sexual Offences Act 2003, between the 7 July 2021 and the 15 July 2021, being a person aged 18 or over you intentionally attempted to cause or incite a girl under the age of 13, namely 12, to engage in sexual activity.
Admitted and found proved

2. On 24 July 2023, for the offences as set out at paragraphs 1 a and b, you were sentenced to:

a. a Suspended Sentence Order, namely 24 months imprisonment suspended for two years with a requirement to:

i. participate in the Horizon Programme for 35 sessions;
Admitted and found proved

ii. comply with a Rehabilitation activity;
Admitted and found proved

b. a Sexual Harm Prevention Order;
Admitted and found proved

c. Sex Offenders notification requirement for five years.
Admitted and found proved

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

To be determined

The Admitted Facts

10. At the outset of these proceedings, through his counsel, Ms Johnson, Dr Walker made admissions to all paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Documentary Evidence

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

- documentation from Merseyside Police including the MG5 case summary and a number of witness statements - including from PC A and PC B;
- the record of Dr Walker's interview at St Anne Street Police Station on 3 September 2021;
- a schedule of the messages between Dr Walker and the police officer purporting to be "Ellie";
- the Suspended Sentence Order and Sentencing remarks from 24 July 2023;
- the indictment and Certificate of Conviction;
- Dr Walker's personal statement, within which he detailed his reflections;
- Dr Walker's Curriculum Vitae;
- documentation presented on behalf of Dr Walker including online modules, character references, and XXX.

IMPAIRMENT

12. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Walker's fitness to practise is impaired by reason of his conviction for two offences.

13. The Tribunal has taken into account all of the evidence received during the facts stage of the hearing.

Submissions

On behalf of the GMC

14. Mr Potts, Counsel, submitted that Dr Walker’s fitness to practise is currently impaired. He stated that the Tribunal must determine impairment by taking into account Dr Walker’s conviction and the criminal offences that gave rise to it. Mr Potts submitted that the Tribunal must also be mindful of its responsibility to uphold the overarching objective as set out in the Medical Act 1983.

15. Mr Potts had referred to the sentencing remarks within his opening submissions. These included reference to the following comments:

“The messages you sent were detailed and repellent. I am sure from your perspective masturbatory in nature. You knew exactly what you were doing in engaging in this paedophile behaviour.”

16. Mr Potts submitted that Dr Walker’s conviction represented a serious breach of Good Medical Practice (2013) (‘GMP’), namely paragraphs 1, 27 and 65:

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

27. Whether or not you have vulnerable adults or children and young people as patients, you should consider their needs and welfare and offer them help if you think their rights have been abused or denied.

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

17. In respect of paragraph 1 of GMP, Mr Potts submitted that Dr Walker had clearly breached the final part of this, namely to “act... within the law”.

18. As to paragraph 65 of GMP, Mr Potts submitted that a patient could not have trust in a doctor who has committed criminal offences of this type and had breached the expectations set out in GMP. He submitted that, in a wider sense, the public’s trust in the profession would clearly be undermined by the conviction and would further be undermined if a doctor with these convictions were found not to be impaired.

19. With regard to paragraph 27 of GMP, Dr Walker had encountered someone he believed to be a 12 year old girl online. Mr Potts stated that this person would have been in a vulnerable position as she was apparently interacting with adult strangers. Mr Potts submitted that Dr Walker not only failed to offer that person help in that dangerous situation but, moreover, exploited her vulnerability and communicated with her in a sexual manner for the purposes of his own sexual gratification. Mr Potts stated that Dr Walker also went further and incited the purported child to engage in sexual activity, namely by requesting that she send him indecent photographs of herself and penetrate herself through masturbation.

20. Mr Potts submitted that, regardless of what steps Dr Walker has taken to address his level of risk and reduce the likelihood of further offending, his fitness to practise is impaired as of today as he has been convicted of very serious sexual offences. He submitted that, in particular, a finding of impairment was necessary with regard to the second and third limbs of the overarching objective, in terms of undermining public confidence and the need to promote and maintain proper professional standards and conduct for members of the profession. The convictions inevitably brought the profession into disrepute.

On behalf of Dr Walker

21. Ms Johnson, Counsel, stated that it was conceded on the part of Dr Walker that the nature and fact of his convictions and sentence would mean that his fitness to practise was impaired. She asked the Tribunal to come to this conclusion based on the second two limbs of the overarching objective, that a finding of impairment is necessary to maintain public confidence in the profession and to maintain appropriate standards of behaviour for those in the profession.

22. Ms Johnson stated that she agreed with the GMC submission that a finding of impairment could be based on public confidence reasons and also the requirements to maintain appropriate standards of behaviour. She submitted that this was not a case where there was evidence to demonstrate that Dr Walker presents a direct risk to patient safety. She stated that this was not to minimise the seriousness of his conviction as he pleaded guilty to very serious offences but, in terms of patient safety, this was not a child that had been seen during the course of Dr Walker's clinical practice. Ms Johnson stated that it was an undercover police officer acting as a child and the offences to which Dr Walker pleaded guilty were non-contact offences. She also submitted that the offending was isolated and limited to a short period in the summer of 2021. Ms Johnson also stated that this was not a case where any indecent images were found on any device.

23. Ms Johnson also referred to the sentencing remarks. She asked the Tribunal to bear in mind a further observation by the Judge, that Dr Walker had received sufficient treatment in the community to remove present risks to children. Ms Johnson submitted that this was a significant finding which the Tribunal could take into account. She referred to the documentation provided on Dr Walker's behalf and submitted that this demonstrated that Dr Walker had demonstrated insight into his offending behaviour, how it directly impacts on victims of sexual abuse, how it had impacted on those around him, and most significantly he had demonstrated reflection on how his conviction seriously impacted upon public confidence in the profession.

The Relevant Legal Principles

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

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

26. The Legally Qualified Chair (LQC) reminded the Tribunal of the comments of Mrs Justice Cox in the case of *CHRE v NMC and Grant [2011] EWHC 927 (Admin)*, including at paragraph 71, that the Tribunal should generally consider whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment was not made. The LQC also referred to the reference by Mrs Justice Cox in *Grant* to the test set out by Dame Janet Smith in the Fifth Shipman Report:

“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*
- d. *has in the past acted dishonestly and/or is liable to act dishonestly in the future.”*

The Tribunal’s Determination on Impairment

Impairment by reason of Conviction

27. The Tribunal took account of the serious nature of the conviction for two offences listed in the Allegation. The Tribunal had regard to Dr Walker’s personal statement and his acceptance that his fitness to practise is impaired by reason of his conviction.

28. The Tribunal noted that Dr Walker had admitted the matters in the criminal court at the Crown Court stage and that, at this hearing, he admitted the Allegation and conceded that his fitness to practise was impaired.

29. The Tribunal had regard to the two offences set out within the Allegation and the details surrounding them. The Tribunal found that Dr Walker had been convicted of two serious offences. This seriousness arose from the nature of Dr Walker’s actions, his persistence, and his rapidly sexualised communication with the purported child. In addition, Dr Walker had also accessed the messaging service at his home, XXX home, and from the hospital where he was working at the time.

30. The Tribunal noted that Dr Walker was sentenced to 24 months imprisonment suspended for two years with a requirement to participate in the Horizon Programme for 35 sessions, comply with a Rehabilitation activity, also a Sexual Harm Prevention Order and Sex Offenders notification requirement for five years.

31. The Tribunal had regard to the sentencing remarks of Mr Recorder Harris, including the following comments as to the offending:

“The messages you sent were detailed and repellent. I am sure from your perspective masturbatory in nature. You knew exactly what you were doing in engaging in this paedophile behaviour. When “Ellie” asked if you were older than 16 you replied you were not and it would be “proper bad” if you were older.

...

Make no mistake, this offending was planned, it was nasty and deliberate. I have said and I repeat I do not find within the guidelines on balance that there was grooming of the child, which means -- again I repeat -- my starting point on the incitement count is reduced."

32. The Tribunal also noted the following within the sentencing remarks:

"I have reached the view, applying the imposition guideline, that you have received sufficient treatment in the community to remove present risks to children. In that regard I disagree with some the sentiments expressed in the pre-sentence report, but I am reinforced and supported by the lack of any other offending since the commission of these offences and I am of the view that appropriate punishment does not require immediate custody. There is a realistic prospect of rehabilitation and there is strong personal mitigation which I have already outlined."

33. The Tribunal referred to the serious nature of the conviction for the two offences, and noted the aggravation of the second count in terms of inciting penetration. The Tribunal noted that Dr Walker had completed safeguarding training throughout his career and so he was clearly aware that conduct of this nature was inappropriate. The Tribunal has found that Dr Walker's actions were such that he had fallen far below the standards expected, and as referred to by Mr Potts above in terms of paragraphs 1, 27 and 65 of GMP. The Tribunal also concluded that Dr Walker's actions engaged limbs (b) and (c) of the test set out by Dame Janet Smith in the Fifth Shipman Report, as quoted above.

34. The Tribunal does not consider, in this determination on impairment, all issues concerning insight and remediation. This approach reflects that of GMC and Dr Walker's Counsel who limited their submissions to the wider public interest considerations of the case.

35. In all the circumstances, it determined that Dr Walker's fitness to practise is impaired by reason of his convictions. The Tribunal concluded that a finding of impaired fitness to practise was required to protect, promote and maintain the health, safety and well-being of the public; to promote and maintain public confidence in the medical profession; and to promote and maintain proper professional standards and conduct for members of that profession.

36. In terms of the first limb of the overarching objective specifically, the Tribunal determined that this was engaged. Whilst there was no harm to any patient, the Tribunal was conscious that, whilst “Ellie” was an undercover police officer, Dr Walker did not know this at the time in question and believed he was speaking with a 12 year old girl. The Tribunal determined that engaging in sexualised communication with a 12 year old girl had the capacity to cause her harm.

37. The Tribunal determined that Dr Walker’s actions and conduct would be considered deplorable by members of the public and members of the profession. Overall, the Tribunal determined that all three limbs of the overarching objective were engaged in this case.

Determination on Sanction - 03/01/2024

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

The Outcome of Application made during the Sanction Stage

39. The Tribunal agreed, in accordance with Rule 41 of the Rules, that parts of this hearing should be heard in private where the matters under consideration are confidential, namely where they involve XXX. As such, this determination will be read in private but a redacted version will be published following the conclusion of this hearing, with those matters relating to XXX removed.

The Evidence

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

41. The Tribunal also received further email correspondence that Dr Walker had with XXX in July 2021, in response to a query from the Tribunal about an existing document provided earlier in the hearing.

Submissions

On behalf of the GMC

42. Mr Potts invited the Tribunal to make the determination that the only appropriate sanction in this case was erasure from the Medical Register.

43. Mr Potts referred to various paragraphs of the Sanctions Guidance (16 November 2020) ('the SG'), including:

"116. The purpose of the hearing is not to punish the doctor a second time for the offences they were found guilty of. The purpose is to consider whether the doctor's fitness to practise is impaired as a result. If so, the tribunal then needs to consider whether to restrict the doctor's registration to protect the public (who might come to the doctor as patients) and to maintain the high standards and good reputation of the profession. The tribunal should take account of paragraphs 65–67 of Good medical practice regarding the need to be honest and trustworthy, and to act with integrity.

117. However, the tribunal should bear in mind that the sentence or sanction previously imposed is not necessarily a definitive guide to the seriousness of the offence. There may have been personal circumstances that led the court or regulatory body to be lenient. For example, the court may have expressed an expectation that the regulatory body would erase the doctor. Similarly, the range of sanctions and how they are applied may vary significantly amongst other regulatory bodies."

44. Mr Potts stated that, in this case, the sentencing judge did express a view in his remarks that Dr Walker's career was over. Further, Mr Potts submitted that the fact that a suspended sentence was passed as an alternative to immediate custody did not meaningfully lessen the seriousness of Dr Walker's conviction for the purposes of this hearing or alter the necessary sanction in this case, namely erasure.

45. Mr Potts referred to the paragraphs of the SG regarding sexual misconduct, including paragraph 150, and then paragraph 153 which is under the heading 'Sex offenders and child sex abuse materials':

"150. Sexual misconduct seriously undermines public trust in the profession. The misconduct is particularly serious where there is an abuse of the special position of trust a doctor occupies, or where a doctor has been required to register as a sex offender. More serious action, such as erasure, is likely to be appropriate in such cases.

153. While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials against a registered doctor is a matter of grave concern because it involves such a fundamental breach of the public's trust in doctors and inevitably brings the profession into disrepute. It is therefore highly likely that, in these cases, the only proportionate sanction will be erasure. However, the tribunal should bear in mind paragraphs 20–23 and 61–111 of this guidance, which deal with the options available to it, and the issue of proportionality. If the tribunal decides to impose a sanction other than erasure, it is important that it fully explains the reasons and the thinking that has led it to impose this lesser sanction so that it is clear to those who have not heard the evidence in the case.”

46. Mr Potts submitted that, whilst certain of the paragraphs within this section of the SG deal with cases involving child abuse materials, the Tribunal may properly have regard to them for two reasons. Firstly, it was an element of the offences committed by Dr Walker that he solicited the purported child to send him indecent images, even if none were in fact sent. Secondly, that the offences go above and beyond the seriousness of many indecent image cases in that they involved deliberate and direct contact, albeit online, with a person Dr Walker believed to be a child.

47. Mr Potts noted the submissions of Ms Johnson at impairment stage that the Judge's sentencing remarks reflected that Dr Walker had *“received sufficient treatment in the community to remove present risks to children”*. Mr Potts submitted that the absence of present risk was not the same thing as the elimination of all future risk.

48. Mr Potts stated that, XXX. Mr Potts also submitted that Dr Walker could not reasonably give any such assurances that there would be no risk of repetition. In terms of evidence for this, Mr Potts referred to Dr Walker's reference in his personal statement to having protections on his phone to prevent the downloading of inappropriate applications. Mr Potts stated that, in his reflections, Dr Walker repeatedly referred to himself as posing a low risk. Mr Potts submitted that this was not the same thing as no risk.

49. Mr Potts stated that it should be noted that Dr Walker had been made subject to notification requirements and a Sexual Harm Prevention Order for a period of five years. He submitted that this reflected the length of time that the sentencing judge considered was necessary to protect the public. Mr Potts stated that this was far in excess of the maximum period of suspension of registration which would be available in this case, namely 12 months.

50. Mr Potts submitted that the loss of public confidence flows from the conviction itself and the fact that Dr Walker so fundamentally breached the trust placed in him by the public. He stated that the damage to this trust was separate and distinct from Dr Walker's rehabilitation as an ordinary member of society. The GMC submitted that it was not remediable.

51. Mr Potts submitted that, regardless of the length of time that has elapsed and of any steps that might be taken towards rehabilitation, neither patients nor the public could have the same confidence and trust in the profession that should be expected if Dr Walker's name was allowed to remain on the Medical Register.

52. In terms of the appropriate sanction, Mr Potts submitted that there were no exceptional circumstances in this case which could justify the Tribunal taking no action. He submitted that this was also not a case where conditions were appropriate. Mr Potts stated that there was no retraining or supervision that would restore confidence in the profession in this case.

53. Mr Potts submitted that Dr Walker's behaviour represented a serious breach of GMP and was fundamentally incompatible with continued registration. He further submitted that complete removal of Dr Walker's name from the Medical Register would be in the public interest in this case.

54. Mr Potts referred to the paragraphs of the SG regarding erasure, including paragraph 108:

“Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.”

55. Mr Potts submitted that all of the guidance pointed towards the appropriate sanction in this case being erasure of Dr Walker's name from the Medical Register. He submitted that this sanction would not be disproportionate and that it appropriately reflected the seriousness and effect of the conviction.

On behalf of Dr Walker

56. Ms Johnson asked the Tribunal to consider the written statements that Dr Walker had submitted. She stated that the Tribunal could conclude from them that Dr Walker was realistic in that he knew that the Tribunal would be considering whether the only way that it could meet the overarching objective would be to erase his name from the Medical Register. Ms Johnson submitted that Dr Walker had made it clear that he appreciated that he had caused significant damage to the public's confidence in the profession by his actions, by his convictions, and by the sentence received.

57. Ms Johnson stated that, in the circumstances of this case, it was understood that the only other sanction that could be considered was one of suspension. She referred to paragraph 158 of the SG that:

“Each case should be considered on its merits and decisions should be taken in the light of the particular circumstances relating to the case.”

She stated that it did not automatically follow that the doctor must be erased because of the nature of the convictions.

58. Ms Johnson stated that the SG did make it clear, at paragraph 91, that an order of suspension was still a serious sanction on a doctor's registration, that suspension does have a deterrent effect, and that it could be used to send out a signal to the doctor, the profession and the public about what is regarded as behaviour unbecoming a registered doctor. Ms Johnson stated that the Tribunal should recognise that erasure is only required if the conduct is fundamentally incompatible with continued registration.

59. Ms Johnson referred to paragraph 93 of the SG:

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

and submitted that there had been a full acceptance of fault in this case. Ms Johnson stated that Dr Walker pleaded guilty at the Crown Court and had accepted the fact of the convictions before the Tribunal. In terms of the risk of repetition, Ms Johnson submitted that

Dr Walker had taken steps, and produced evidence, to enable the Tribunal to conclude that the behaviour was unlikely to be repeated. She stated that Dr Walker had taken such steps, almost immediately, to mitigate his actions. Ms Johnson referred to the documentation provided on Dr Walker's behalf including the contact he had with the Safer Lives Programme and the Lucy Faithful Foundation. She referred to the detail of what had been covered in the Safer Lives Programme, including understanding the experience of child victims, understanding individual risk factors, and formulating a future life plan, and Dr Walker's reflections on the Lucy Faithful online modules undertaken.

60. Ms Johnson took issue with Mr Pott's interpretation of Dr Walker's view as to his risk of offending. She referred to Dr Walker's personal statement and submitted that he clearly stated that he was adamant that he would not reoffend. Ms Johnson referred to a section of the statement where Dr Walker said, *"I am realistic to know that I will be associated forever more with an element of risk..."* and submitted that this was very different to Dr Walker saying that there was a risk of reoffending. She submitted that the way in which Dr Walker expressed matters very much demonstrated insight into how he will be perceived in the future. Ms Johnson referred to a further section of that statement where Dr Walker said, *"I will do everything within my power to reduce the risk"*. She submitted that the documents demonstrated that Dr Walker had reflected fully and properly about what those risk factors were and how he would prevent any repetition.

61. Ms Johnson referred to the personal risk factors that Dr Walker had identified, including viewing pornography, the use of chatrooms, exposure to those who offend, loneliness, boredom, and frustration with life. She stated that Dr Walker then dealt with how he would cope with each of those risk factors. Ms Johnson submitted that the reflection was very much to his credit.

62. Ms Johnson acknowledged that, in assessing future risk, the Tribunal would consider Dr Walker's past behaviour. She submitted that it was significant that the offending was limited to an isolated period in the summer of 2021; no indecent images were found on his electronic devices; he had not sought to meet or make physical contact with the child with whom he believed he was communicating. Ms Johnson submitted that it was also significant that the Judge concluded that Dr Walker did not present a risk to children (the Tribunal has recited the precise quotation above). She stated that, whilst Dr Walker understood the Tribunal's findings on impairment that he does present a risk to patient safety, it may be said that his offending was very much out of character. Ms Johnson referred to the large number of testimonials provided, from family, friends and a number of medical practitioners. She

stated that they were able to confirm the high regard that they had for Dr Walker, notwithstanding his criminal convictions. She stated that they were also able to attest to Dr Walker's skills and ability as a doctor and described him in very positive terms.

63. XXX

64. Ms Johnson submitted that the following factors at paragraph 97 of the SG were relevant in this case:

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

...

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

f. No evidence of repetition of similar behaviour since incident.

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

She submitted that the evidence demonstrated the steps that Dr Walker has taken to remediate - and that he has done all that he possibly could at this stage - and there has been no repetition of similar behaviour since the incident occurred. Ms Johnson invited the Tribunal to conclude that Dr Walker had demonstrated full insight into his offending behaviour and its implications, and that he does not pose a significant risk of repetition.

65. Ms Johnson submitted that, due to the factors outlined, the overarching objective would still be met in the circumstances of this case by an order of suspension. She stated that the Tribunal could direct a review which would mean that Dr Walker would not resume unrestricted practice unless a future Tribunal were to determine his fitness to practise was no longer impaired.

The Tribunal's Determination on Sanction

66. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement.

67. In reaching its decision, the Tribunal has taken account of the SG and of the overarching objective. It has borne in mind that the purpose of the sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

Aggravating and mitigating factors

68. The Tribunal had regard to the sentencing remarks of Mr Recorder Harris, including:

“Count 1 carries a maximum of two years’ imprisonment. I find as an aggravating factor in that the offence involved sustained, persistent communication. There are no statutory aggravating factors.

Mitigating factors generally as far as you are concerned include no previous convictions, remorse, which I accept is genuine, previous positive good character and a demonstration of steps taken to address offending behaviour.

Count 2 carries -- showing how serious the substantive offence is -- a maximum sentence of life imprisonment if penetration is involved, otherwise 14 years. It is category two because of penetration of the vagina by or of the victim. I say again it is an attempt; there is no actual penetration and there could not have been.

...

Further compelling mitigation is set out in the testimonials that I have read and the steps that you have taken to help yourself.”

69. The Tribunal identified the following additional aggravating factors in this case:

- pursuant to paragraph 55(e) and (f) of the SG, the nature and circumstances of the offending including that these were sexual offences involving sending messages to a person he believed to be a young child.
- Dr Walker was someone who had had regular safeguarding training and would therefore have had knowledge and understanding of the effect of abuse upon children.

70. The Tribunal identified the following mitigating factors in this case:

- Dr Walker’s difficult personal circumstances at the time of the offending. The Tribunal noted that Dr Walker had been impacted by a relationship breakdown and that he was lonely, isolated and struggling. XXX.
- Dr Walker’s character and previous history. The Tribunal considered that Dr Walker had no previous fitness to practise history and no previous convictions.
- Testimonials. A positive picture was painted by a number of his medical colleagues which showed that he was good at his work and that his offending was out of character for the person that they knew. There were also positive testimonials from family and friends. The Tribunal noted that Dr Walker appeared to have conducted himself in an exemplary manner in helping others in the community through his volunteering.

Insight and attempts to address his actions

71. The Tribunal considered Dr Walker’s insight and attempts to address his actions.

72. The Tribunal determined that Dr Walker demonstrated that he understood where he had gone wrong and it noted that he had undertaken appropriate rehabilitative work before the time of the Crown Court appearance. It noted the learning undertaken by Dr Walker, including the Safer Lives Programme, the Lucy Faithful online modules, and the reflections he had submitted. The Tribunal was of the view that it was clear that Dr Walker had reflected and understood what he should do to avoid reoffending and that he had addressed risk factors.

73. XXX

74. The Tribunal determined that Dr Walker did have insight into his behaviour. It considered that, overall, Dr Walker had shown that he had substantial insight. However, it was of the view that, while it was implicit, the Tribunal would have welcomed further - explicit - comment on the impact of his actions on the purported child. The Tribunal recognised that Dr Walker was comforted in knowing that the “minor” was actually an undercover officer, and that he found his behaviour to have been abhorrent. He stated:

“Looking back, I struggle to believe that it was actually me and I cannot express how abhorrent I find such communication.”

However, the Tribunal was disappointed that there was not more reflection on the potential for harm to that child, had it not been an undercover officer. There was a lack of articulation as to what the impact would have been if it had been a real child, particularly in circumstances where he believed at the time in question that it was. The Tribunal appreciated that there was a recognition that the conduct was wrong and of the overall consequences of his behaviour, but the Tribunal considered that further articulation could have been advanced to demonstrate a fully rounded level of insight.

Remediation of the concerns

75. The Tribunal considered that Dr Walker had taken remedial actions, including completing programmes and learning to understand the impact of his conduct. However, notwithstanding the fact that Dr Walker has undertaken significant steps to address his behaviour, the Tribunal considered that it was obliged to reach a view as to whether his conduct was remediable.

76. The Tribunal had regard to Dr Walker's convictions, including the sentencing remarks of Mr Recorder Harris, including the following comment as to the offending:

"The messages you sent were detailed and repellent. I am sure from your perspective masturbatory in nature. You knew exactly what you were doing in engaging in this paedophile behaviour. When "Ellie" asked if you were older than 16 you replied you were not and it would be "proper bad" if you were older."

77. The Tribunal noted the detail and circumstances of the convictions and of the sentence imposed, including notification requirements and a Sexual Harm Prevention Order. It had specific regard to the paragraphs of the SG regarding sexual misconduct, including paragraphs 150 and 153 which are quoted above.

78. The Tribunal also appreciated Dr Walker's difficult personal circumstances at the time in question but was of the view that there were no exceptional circumstances in this case that could be a reason for what Dr Walker did. XXX. Ultimately, the Tribunal concluded that the conduct was irreparable, particularly given the impact of Dr Walker's actions on public confidence and the reputation of the profession.

No action

79. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Walker’s case, the Tribunal first considered whether to conclude the case by taking no action.

80. The Tribunal noted the second part of paragraph 154 of the SG:

“...The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. The tribunal will therefore need to make sure that, in cases where it imposes a period of suspension or conditions, the case is reviewed before the end of this period to consider whether a further period is appropriate.”

81. The Tribunal determined that, in view of the serious nature of the Tribunal’s conclusions as to impairment, it would be neither sufficient, proportionate nor in the public interest to conclude this case by taking no action. It was unable to find any exceptional circumstances such as to justify taking no action.

Conditions

82. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Walker’s registration.

83. The Tribunal has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable. Further, the SG suggests that conditions would be appropriate if the issue involved dealing with a doctor’s shortcomings rather than addressing damage to the reputation of the profession and the need to uphold standards of conduct and behaviour for members of the profession.

84. Given the seriousness of the convictions, the Tribunal determined that it would be inappropriate and insufficient to direct the imposition of conditions on Dr Walker’s registration.

Suspension

85. The Tribunal then went on to consider whether suspending Dr Walker’s registration would be appropriate and proportionate.

86. The Tribunal had regard to the relevant paragraphs of the SG, including paragraphs 93 and 97 which are quoted above in Ms Johnson’s submissions. The Tribunal also acknowledged that suspension has a deterrent effect and can be used as a signal to the doctor, the profession, and to the public about what is regarded as behaviour unbecoming a registered doctor. It took account of paragraph 92 of the SG:

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

87. The Tribunal determined that the convictions were so serious that suspension would be neither sufficient nor appropriate in order to protect the public, maintain public confidence and uphold proper professional standards. It concluded that Dr Walker’s conduct and the nature and circumstances of the convictions were such that his conduct was fundamentally incompatible with continued registration. The Tribunal expanded on this below.

Erasure

88. The Tribunal therefore went on to consider the sanction of erasure. It considered that the following two paragraphs of the SG were relevant in this case:

“107. The tribunal may erase a doctor from the medical register in any case - except one that relates solely to the doctor’s health and/or knowledge of English - where this is the only means of protecting the public.

108. Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.”

89. It also had regard to its comments above regarding insight and remediation, and took account of the section within the SG on sexual misconduct, including paragraphs 150 and 153, which are quoted above, and paragraph 151:

“Any doctor who has been convicted of, or has received a caution for, a sexual offence listed in Schedule 3 to the Sexual Offences Act 2003 must notify the police (register) under section 80 of the Sexual Offences Act 2003 and may need to undertake a programme of rehabilitation or treatment. Sexual offences include accessing and viewing, or other involvement in, child sex abuse materials, which involves the exploitation or abuse of a child. These offences seriously undermine patients’ and the public’s trust and confidence in the medical profession and breach a number of principles set out in Good medical practice (paragraph 65 regarding honesty and integrity, particularly paragraph 47 regarding respecting patients’ dignity, and paragraph 27 regarding children and young people).”

90. The Tribunal then went on to consider paragraph 109 of the SG, which states *“Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).”* The Tribunal determined that the following factors were present:

“a. A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.

b. A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

...

e. Violation of a patient’s rights/exploiting vulnerable people (see Good medical practice, paragraph 27 on children and young people...).

f. Offences of a sexual nature, including involvement in child sex abuse materials (see further guidance below at paragraphs 151 - 159).”

91. In addition, the Tribunal referred to its comments within the impairment determination that Dr Walker’s actions were such that he had fallen far below the standards expected, including reference to paragraph 65 of GMP, paragraph 109(d) was also engaged:

“Abuse of position/trust (see Good medical practice, paragraph 65: ‘You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession’).”

92. The Tribunal had regard to the nature and circumstances of Dr Walker’s convictions, to the aggravating and mitigating factors that it had identified, and to its comments in respect of remediation and why suspension was inappropriate and insufficient.

93. In all the circumstances, the Tribunal determined that Dr Walker’s conduct was, with reference to paragraph 109(a) of the SG, fundamentally incompatible with his continued registration.

94. The Tribunal therefore directs that Dr Walker’s name be erased from the Medical Register. It concluded that erasure was the only necessary and proportionate sanction which would sufficiently and adequately meet the overarching objective, namely: to protect and promote the health, safety and wellbeing of the public; maintain public confidence in the medical profession; and to uphold proper professional standards and conduct for members of the profession.

Determination on Immediate Order - 03/01/2024

95. Having determined to erase Dr Walker’s name from the Medical Register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Walker’s registration should be subject to an immediate order.

Submissions

Submissions on behalf of the GMC

96. Mr Potts referred to the relevant paragraphs of the SG, including paragraph 173:

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

97. He submitted that it was the final section of this paragraph that applied here given the Tribunal’s findings, including in respect of the nature of the convictions and the justification for erasure. Mr Potts submitted that immediate action should be taken in this case for the protection of the public and otherwise in the public interest.

Submissions on behalf of Dr Walker

98. Ms Johnson stated that there was an interim order of suspension in place and that there were no further submissions on behalf of Dr Walker.

The Tribunal’s Determination

99. In making its decision the Tribunal had regard to the SG, including paragraph 173 as quoted above, and paragraph 172:

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

100. The Tribunal had regard to the seriousness of its findings, which it has outlined in detail in its previous determinations.

101. In all the circumstances, the Tribunal determined to impose an immediate order of suspension on Dr Walker’s registration. The Tribunal concluded that it would be inappropriate to allow Dr Walker to practise in the intervening period before the substantive order takes effect. The Tribunal concluded that this was appropriate and necessary in the wider public interest.

102. This means that Dr Walker’s registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, unless an appeal is made

in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

103. The interim order is hereby revoked.

104. That concludes this case.