

Notice of Decision of the Northern Ireland Social Care Council's Conduct Committee

Name: Sarah Teresa Lynch

SCR No: 6002883

NOTICE IS HEREBY GIVEN THAT the Conduct Committee of the Northern Ireland Social Care Council, at its meeting on **21 March 2016**, made the following decision about your registration with the Northern Ireland Social Care Council:

The Committee found the facts proved;

The Committee found that you have committed misconduct;

The Committee decided to make an Order for removal of your registration from the Register ('a Removal Order').

Charge:

That, being registered as a social care worker under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), and whilst employed as a residential worker at Iona House, Strabane, County Tyrone by Apex Housing, 10 Butcher Street, Derry, BT48 6HL:

1. You committed the following offence whilst on duty:

Defendant on the 06 September, 2014 in the County Court for the Division of Fermanagh and Tyrone, stole food items of an unknown value belonging to BM, contrary to Section 1 of the Theft Act (Northern Ireland) 1969.

You pleaded guilty to the above stated offence on 30 July, 2015.

2. And your actions as set out at 1 above were dishonest.

And your actions as set out above amount to misconduct, such as to call into question your suitability to remain on the Social Care Register.

Preliminary Matters

Representation

The Northern Ireland Social Care Council ('the Council') was represented by Mr Anthony Gilmore (Solicitor, Directorate of Legal Services, Business Services Organisation). He was attended by Mr Conan O'Brien (Council's Officer). The Registrant was not in attendance and nor was she represented.

Service

The Committee was advised by Mr Gilmore that the Notice of Hearing was sent by Special Delivery post to the Registrant's registered address on 09 February 2016. The Legal Adviser was shown proof of postage and a delivery receipt signed by the Registrant. Mr Gilmore also stated that the hearing bundle was sent to the Registrant on 03 March 2016, and received by her on 04 March 2016. The Legal Adviser was, again, shown proof of postage and a delivery receipt signed by the Registrant. He advised the Committee that both the Notice of Hearing and the hearing bundle had been served on the Registrant in compliance with the requirements set out in Paragraph 3 Part 1 of the NISCC (Conduct) Rules 2014 ('the Rules'), and Paragraph 4 of Schedule 2 of those Rules.

Proceeding in the Absence of the Registrant

The Committee was advised by Mr Gilmore that on 04 February 2016, the Registrant contacted the Council by telephone to advise that she would not be participating in these proceedings. He submitted, on behalf of the Council, that the Registrant had deliberately absented herself from the hearing, although she was clearly aware that it was taking place, and the nature of the proceedings. He contended that it was in the public interest to proceed with the hearing in the Registrant's absence.

The Legal Adviser advised the Committee that it had discretion, within the terms of Paragraph 14 (2) of Schedule 2 of the Rules, to either adjourn the hearing with directions or to proceed in the Registrant's absence. He emphasised that it was a discretion which had to be exercised carefully and with caution: *Tait –v- Royal College of Veterinary Surgeons* [2003] UKPC 24. He explained that it was necessary, when exercising this discretion, to ensure that no unfairness was caused to the Registrant.

The Committee accepted this advice. After weighing the matter carefully, the Committee decided that it was appropriate to proceed in the Registrant's absence, since she had consciously and deliberately declined to participate in the process. The Committee concluded that there would be no purpose served in postponing the proceedings, since the Registrant had clearly reached the view that she was not going to engage with the Conduct Hearing arrangements.

Application to admit Hearing Bundle

Mr Gilmore applied to the Committee to submit the hearing bundle, which had been served on the Registrant on 04 March 2016. Mr Gilmore made a second application that some particular entries within the hearing bundle should be redacted to ensure fairness to the Registrant.

The Legal Adviser reviewed the documentation in advance of the hearing, and advised the Committee that the contents of the bundle were all highly relevant to the issues to be considered by the Committee. He advised the Committee that it was appropriate for it to receive the bundle, pursuant to its powers contained within Paragraph 11 (2) of Schedule 2 of the Rules, subject to its consideration of the redaction application.

The Legal Adviser went on to explain to the Committee that Mr Gilmore's application to redact certain contents of the hearing bundle was an appropriate application, because it ensured that the documents to be considered by the Committee would only be those which were strictly relevant to the Charge. The Committee accepted that advice and decided that the redacted bundle would be accepted into evidence.

During the Committee's deliberations, an issue arose concerning the fact that the Registrant had not been made aware of the proposed redactions. The Committee considered whether, had the Registrant known of the proposed redactions, she would have been prepared to engage in the process. However, the Committee noted that even before she had been served with the original hearing bundle, she had stated that she was not prepared to engage in the process. Accordingly, the Committee decided that there was no unfairness caused to the Registrant by accepting the redacted bundle.

Background

The Registrant has been registered on Part 2 of the Northern Ireland Social Care Register since 29 October 2012. She was employed as a Residential Worker at Iona House, Strabane, until she resigned on 15 September 2014.

On 10 September 2014, staff at Iona House reported to the Police Service of Northern Ireland ('the PSNI') that the Registrant was responsible for stealing items of foodstuff from Iona House during working hours, on 06 September 2014. The Registrant was interviewed by the PSNI and, initially, denied stealing the items.

However, when the matter was brought before the Magistrates' Court on 30 July 2015, she pleaded guilty to one offence of stealing foodstuffs. The victim of the offence was named in the Charge as BM, although, technically, it was accepted that the foodstuffs belonged to the Registrant's employer, Apex Housing Association. BM is the Personnel Officer of Apex Housing Association.

On 04 September 2015, the Registrant was sentenced to a 100 hour Community Service Order, and ordered to pay a monetary penalty of £20.30, the estimated value of the stolen goods.

Evidence

The hearing bundle, considered by the Committee, contained the following documents:

- A Certificate of Conviction, dated 19 January 2016;
- A letter from Detective Chief Inspector Galbraith, dated 11 September 2015, notifying the Council of the Conviction;
- A letter from Detective Chief Inspector Galbraith, dated 13 November 2015, providing further detail in relation to the offence and the circumstances; and
- Two statements from BM.

Finding of Facts

The Committee considered the documents contained within the hearing bundle. It noted that the Charge, faced by the Registrant, referred specifically to the conviction for theft to which she pleaded guilty, on 30 July 2015. The Committee also took into account the statements provided by BM which explained the circumstances in which the offence was committed, including the fact that the incident occurred when the Registrant was on duty at Iona House.

Mr Gilmore referred to the Certificate of Conviction, and submitted that this proved that the Registrant had been convicted of the offence referred to in the Charge. He submitted that pursuant to Paragraph 11 (5) of Schedule 2 of the Rules, the Committee should accept the Certificate of Conviction as proof of the facts contained within the Charge.

The Committee received legal advice from the Legal Adviser. He explained that the onus of proof was on the Council to prove the facts contained within the Charge. He reminded the Committee of the meaning and application of Paragraph 11 (5) of Schedule 2.

The Committee accepted the advice provided, and concluded that the Certificate of Conviction proved the facts contained in the Charge. The Committee also relied on the contents of the statements of BM, which were unchallenged by the Registrant. Taken together, these documents established that the Registrant was convicted of theft of foodstuffs from her employer, an offence of dishonesty, on 06 September 2014, whilst employed as a residential worker.

Misconduct

Mr Gilmore submitted that the circumstances of the Registrant's offending called into question the Registrant's suitability to remain on the Register. He asserted that her conduct amounted to a breach of trust, and that this conduct fell far below that which is reasonably to be expected of a social care worker. He contended that her behaviour undermined confidence in her, and the social care profession generally. He submitted that the conduct contravened sections 2.1, 5.1 and 5.8 of the NISCC Codes of Practice for Social Care Workers.

In his advice to the Committee, the Legal Adviser emphasised that it was for the Council to establish that the conduct referred to amounted to "misconduct". He highlighted the decision of the Privy Council in *Roylance v*

General Medical Council, and explained that this decision, and Paragraph 23 of Schedule 2 of the Rules, established the importance of taking the Codes of Practice into account when examining this issue.

The Committee was entirely satisfied that the Registrant's conduct amounted to "misconduct" in contravention of the Code. As a social care worker, the Registrant was expected to carry out her duties honestly and straightforwardly. By stealing foodstuffs from her employer when she was entrusted with the responsibility of caring for vulnerable adults, she was guilty of a breach of trust.

The Committee examined each of the provisions of the Code identified by Mr Gilmore. It accepted that the following provisions were breached:

Code 2: As a social care worker, you must strive to establish and maintain the trust and confidence of service users and carers. This includes:

2.1 Being honest and trustworthy.

Code 5: As a social care worker, you must uphold public trust and confidence in social care services. In particular you must not:

5.8 Behave in a way, in work or outside work, which would call into question your suitability to work in social care services.

However, the Committee was not satisfied that section 5.1 of the Code is applicable to the circumstances of the case. This enjoins social care workers not to "abuse, neglect or harm service users, carers or colleagues." In his submissions, Mr Gilmore explained that since BM was a colleague of the Registrant's, and since she has been identified as the victim of the theft, that therefore, section 5.1 was engaged. However, the Committee considered that while the Registrant's behaviour was undoubtedly dishonest, BM was not actually harmed or abused by the Registrant. Instead, it was her employer which was harmed by the theft. BM was only a victim of the theft in the technical or legal sense, that she was named as the injured party for the purposes of the Charge, which was brought before the Magistrates' Court.

Sanction

Having regard to the fact that the Registrant was not in attendance, and with characteristic fairness, Mr Gilmore commenced his submissions by outlining the factors which could be taken into account in mitigation of the Registrant's misconduct:

- She appeared to be of good character until this incident occurred;
- There was no known history of misconduct;
- Service users had not been directly harmed by her behaviour;
- She had pleaded guilty to the theft charge when the case was brought before the Magistrates' Court.

However, Mr Gilmore went on to say that when determining sanction, the Committee was bound to have regard to the fact that this was a dishonesty offence which involved a breach of trust, where the misconduct occurred at work during working hours. He went on to submit that there was also an element of pre-meditation.

The Committee received and accepted the advice provided by the Legal Adviser. He explained to the Committee that it must apply the principles contained within Paragraph 25 (2) of the Rules. He underlined that the purpose of the available sanctions was not to punish the Registrant, but rather the key interests were the protection of the public, and the public interest in maintaining confidence in social care services. He emphasised the need for the Committee to apply a proportionate approach, and that one way of achieving this was by considering the available sanctions in ascending order of severity. He referred the Committee to the Indicative Sanctions Guidance and, in particular, the advice relating to cases of dishonesty:

“5.11: Dishonesty is particularly serious because it may undermine trust in social services. Examples could include cases of theft, fraud or embezzlement etc....The public must be able to place complete reliance on the integrity of Registrants.”

Before considering the available sanctions, the Committee reminded itself of the context. It recognised that while this was a relatively insignificant theft in purely financial terms, involving as it did the appropriation by the Registrant of some foodstuffs valued at just over £20.00, it was important to have regard to the fact that the misconduct occurred in the workplace. The Committee took the view that dishonesty on the part of a social care worker is a serious matter. It is fundamental to the role of a social care worker that they conduct themselves in the workplace with honesty and integrity at all times. They are, quite often, trusted to work at close quarters with vulnerable people, and reliance is placed upon them to look after the affairs and the property of service users when they are unable to do so for themselves.

The Committee proceeded to consider, in ascending order of severity, the appropriate sanction:

Admonishment – The Committee was satisfied that an admonishment would be insufficient to reflect the gravity and nature of the Registrant's misconduct, taking into account the need to provide adequate public protection. While there was no evidence of direct harm to service users in this instance, the Committee concluded that a financial charge was likely to have been visited upon service users had the theft not been detected. The Registrant had failed to engage with the process, and had at no point delivered any expression of regret or apology, or demonstrated any insight into her failings.

Suspension – The Committee also took the view that a Suspension Order could not be awarded in this instance. This was a serious incident of misconduct. While the Committee rejected Mr Gilmore's submission that there was evidence of premeditation, the Committee reminded itself, again, that this was a breach of trust case, and that the offence took place when the Registrant was charged with the responsibility of caring for vulnerable service users. In the absence of any representations by or on behalf of the Registrant, the Committee was not satisfied that there was no risk of repetition.

Removal – In the circumstances, the Committee was unanimous in its view that the only meaningful step that could be taken to protect the public, and to preserve confidence in the social care profession, was to remove the Registrant from the Social Care Register.

The Registrant's conduct was fundamentally incompatible with the role of a social care worker. Her behaviour had the potential to undermine confidence in the profession. Notwithstanding the gravity of this matter, the Registrant had decided, even before the Notice of Hearing was served on her, that she was not prepared to engage with the process. She failed to take any steps to assure the Committee that she recognised her wrongdoing, was sorry for it, and was prepared to take the necessary remedial steps. Indeed, she had failed to present the Committee with any indication of how she viewed her behaviour, and what she could do to correct that behaviour and to provide reassurances for the future. While the Committee recognised that the Registrant had no previous disciplinary record, this was insufficient mitigation when the nature of her misconduct and the adverse implications for trust and confidence were taken into account. This was such a serious departure from the standards expected of her that a removal was the only option available to the Committee in the circumstances of this case.

Legal Advice Given

Service

The starting point is Rule 3 of Part 1 of the 2014 NISCC Conduct Rules, and they provide the Rules with regard to the appropriate method for service of documents and service must be effected by either, registered post and it must be sent to the Registrant's home or electronic address as it appears on the Register. Mr Gilmore has outlined to you that in this case the Notice of Hearing was sent on 09 February to the last registered address. It was sent by special delivery, and I have been shown vouching documentation, in respect of that, which shows the Notice of Hearing sent on 09 February, and an electronic record showing that it was signed for as having been received by the Registrant, on 10 February.

Secondly, with regard to disclosure of Hearing bundles, they were sent and I have seen the documentation to show that they were sent on 03 March and, secondly, as Mr Gilmore has outlined, they were signed for on 04 March, and I have seen the record for that, there is a record of an electronic signature dated 04 March. So, in terms of Rule 3 of Part 1 and Rule 4 of Schedule 2 of the 2014 Rules, I am satisfied that I can advise you that service has been properly effected in accordance with the Rules.

Proceeding in the Absence of the Registrant

Rule 14 (2) of Schedule 2 of the Conduct Rules 2014, provides that where you are satisfied that the Notice of Hearing has been duly served on the Registrant it may, that is you may, hear and determine the case in the absence of the Registrant, or adjourn the Hearing and give directions.

Mr Gilmore, on behalf of the Council, has indicated that it is the Council's wish that you proceed to determine the

matter this morning. He has said that the Registrant is aware of the proceedings and the nature of the proceedings, and has made a deliberate decision not to attend. In that respect, he has shown me a record of a conversation between the Registrant and Council's Officer which occurred on 04 February, and the record makes it plain that she doesn't want to be involved in these proceedings, hence Mr Gilmore's submission that she has made a deliberate decision not to attend. Finally, he says that there is a public interest in proceeding without delay.

Now, you have a discretion whether to proceed today or to adjourn. Mr Gilmore says that there would be little purpose served in adjourning because nothing would change, in the sense that the Registrant has indicated that she would not wish to become involved. Proceeding in the absence of a Registrant is a matter that has to be carefully and very cautiously considered. A Registrant has a right to attend these proceedings or to be represented. This Registrant appears to have waived that right, and that is a matter that may sound particularly heavily with you. Nevertheless, you have to take into account, also, that proceeding in the absence of a Registrant is an exceptional decision. You have to take into account fairness to the Registrant, is there any difficulty in proceeding in her absence, would matters be different if you were to adjourn today, those are the kinds of questions that you need to ask yourself, but as is indicated in a decision of the Privy Council in a regulatory context, R v Hayward which was approved in Tate v The Royal College of Veterinary Surgeons, those cases indicate that what may weigh particularly heavily with you is a decision, if there is evidence for it, that a Registrant has decided deliberately not to attend.

So weighing all those matters up, it is a matter for you to exercise your discretion appropriately.

Application to Admit Hearing Bundle

I would advise as follows: Within Schedule 2 of the 2014 Rules, you will find Rule 11, and Rule 11 deals with evidence. Rule 11 (2) provides that you may receive oral, documentary or other evidence of any fact or matter which appears to you to be relevant to your consideration of the case. Now, the documentary evidence which Mr Gilmore, on behalf of Council, proposes to be put before you has been read and considered by me in advance of today and the documents contain, briefly, a Certificate of Conviction, a letter from a Detective Chief Inspector of the Police Service of Northern Ireland, which was sent to the Council on 11 September 2015, notifying Council of the conviction.

A further letter from the same Police Officer to Mr Conan O'Brien of the Northern Ireland Social Care Council, dated 13 November 2015, providing further details in relation to the conviction and, fourthly, a witness statement from a BM, who was the Personnel Officer in the Housing Association where the Registrant worked, and it contains a witness statement made to the Police Service of Northern Ireland in connection with the matter you are considering today.

It is my view that each of the documents contained within the bundle, are relevant and germane to your consideration of the case. Helpfully, Mr Gilmore has engaged with myself in advance of this stage of the process to highlight a number of pieces of content of those documents, which he has quite fairly indicated might cause prejudice to the Registrant if they came before you. Hence at pages 6, 7 and 8 of those documents he has proposed certain redactions, and that is the basis for his second application to you. He says that you may

exclude evidence, this is Rule 11 (1) (b), 'you may exclude evidence in order to ensure fairness to the Registrant and between the parties'. So, in my respectful submission, Mr Gilmore has dealt with this matter entirely appropriately, he is saying that although these documents in their entirety went before the Registrant for consideration, and she hasn't objected to them, he is saying that upon consideration he could see if she was, for example, legally advised, he could see some basis for objection to certain parts of them, and he has explained that rationale to me, and I am in full agreement with him that the redactions are appropriate and fair, and are designed not to undermine or injure the Registrant's case, but to ensure fairness to the Registrant. Therefore, I would be advising you that you should accede to the second part of his application as well, which is to redact the contents at pages 6, 7, and 8, and I understand that he has pre-prepared the document in a redacted form so that you won't see, if you like, the harmful aspects of the document.

Advice given in Camera

Yes, just for the record, in light of Mr Gilmore's application to admit the redacted bundle, one of the Panel members raised a particular question which required legal advice. Now, the question which arose was, in essence, looking for advice in relation to whether if the Registrant had been originally served with the redacted bundle or the bundle in a redacted form, whether that might have affected the attitude or view that she would have taken in relation to her participation in this process. So, I judged that question as a relevant question, not a question that required, if you like, technical legal advice, but one which required an analysis of various circumstances and, in essence, what I said to the Committee, it being the Committee's decision to exercise its discretion whether or not to accept the bundle in its redacted form, but what, in essence, I said to the Committee was this: The effort to redact the bundle is being performed in the interests of the Registrant in order to create a fairer playing field for her. But I thought it was relevant to highlight to the Committee that in light of the conversation of 04 February which was recorded by Council's Officer, in which the Registrant indicated that she would not be participating in the process that the answer to the Panel member's question appears straightforward. In other words, the Registrant had taken the view before receiving any documents that she wasn't going to participate, and, therefore, it seemed as a matter of logic that the Committee could exercise its discretion safe in the knowledge that the contents of the documents, whether redacted or unredacted, was not going to affect the Registrant's attitude to participation one way or the other. As I have said, you have got to wrap around all of this the fact that the efforts to redact the documents is, in essence, being performed in order to protect the Registrant's interests. And, having received that advice, the Committee proceeded to reach its decision which the Chair will now announce to you.

Finding of Facts

You are at stage 1 of a three stage process, and this is the stage at which you have to make findings of fact. Rule 22 of Schedule 2 provides that you, having heard the evidence shall consider, in private, whether the facts in the Charge have been proved on the balance of probabilities. Now, at this stage of the process, the onus is on the Council to prove its case on the balance of probabilities, the Registrant is not here today, and I need not say anything in any event.

Now, Mr Gilmore, on behalf of the Council, has referred you to Rule 11 (5), in the context of a conviction case, that is an important provision. He has read the Rule to you in full, but in essence, what you should do is look at the Certificate of Conviction, look at the particulars contained within that Conviction Certificate, look at the documents and, in particular, the statement provided to police by the injured party, Ms McLaughlin, and extract from those documents all of the material that is germane to the Charge. The Charge faced by the Registrant must then be considered by you. You should look at that to determine whether the facts contained in the Charge have been proved and, as I have said, one of the key documents that you want to look at to see whether the facts contained within the Charge have been proved is the Certificate of Conviction.

Mr Gilmore, on behalf of Council, looking at the Charge highlights to you the following: He says that the Certificate of Conviction proves that the Registrant has been convicted of theft, and you will see that the Charge before you refers to a conviction for theft. You will see that he, in his submissions, has told you that a necessary element of the Charge of theft or a conviction for theft is dishonesty, you will see that the Charge before you refers to the Registrant having been dishonest, and I can advise you, as a matter of law, that one of the key elements, or one of the key ingredients of a theft charge, as a matter of Northern Ireland law, is the ingredient of dishonesty, a person must have dishonestly appropriated a person's property or goods with the intention of permanently depriving that person of them. So you can take it, that it is the case that a conviction for theft necessarily encompasses a dishonest act.

He has also gone on to say to you that when you look at the Charge, faced by the Registrant, you will see other factual aspects that you will want to ensure are made good on the evidence before you, so you will need to look to see whether there is sufficient evidence to prove that the theft was committed whilst she was employed as a residential worker at Iona House, employed by Apex Housing and, I would commend to you a detailed reading of the statements of BM which sets all of that out. But you will need to satisfy yourself, on the balance of probabilities, that it is effectively set out. You will remember that the evidence of Ms McLaughlin is not opposed by the Registrant, she hasn't objected to the contents of her statements.

So, those are the factors that you should take into account in order to answer a single question, that is, whether on the balance of probabilities, the Council have established the facts set out in the Charge.

Misconduct

You are at stage 2 of the proceedings, which is the misconduct stage and Paragraph 23 of Schedule 2 provides that where the Committee has found some or all of the facts proven, and of course you have, the Chair shall ask the Registrant whether on the facts found proven, the Registrant admits misconduct. Well, in this case there is no such admission. Mr Gilmore points out that your task, therefore, is to engage in an active consideration of whether misconduct has been established. The Council will, of course, accept that the onus is on it to prove misconduct, again, on the balance of probabilities. One of the key things which you are obliged to take into account pursuant to Paragraph 23, sub-paragraph 3 is the Codes of Practice. Mr Gilmore has highlighted, on behalf of the Council, three passages of the Code which he suggests are relevant in light of the findings of facts which you have established, and you should work through each of those provisions in the Code, sequentially, and determine whether you are satisfied that those aspects of the Code are engaged.

In terms of definition of misconduct, I wish to bring to your attention two aspects; first of all, there is a short definition of misconduct within the Conduct Rules which you find in the interpretation section at page 2 and there you will find misconduct means 'conduct which calls into question the suitability of a Registrant to remain on the Register'. So, in essence, breaking that down, does the conduct of the Registrant raise a question mark, does it bring into question her suitability to remain on the Register. The second piece of information I wish to bring to your attention is the guidance issued by the higher courts in the United Kingdom, in a case called Roylance v General Medical Council and it provided guidance in terms of the appropriate approach to the meaning of misconduct, and there it was held that 'misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner', as it was in that case, 'in the particular circumstances'. So you can see, in that case, and it is the same within the Rules of the Northern Ireland Social Care Council, that in order to establish or in order work out whether there has been misconduct, it is important to look at something like the Code which purports to set out in plain language the rules or standards that are to be expected of a social care worker.

Bringing the facts into it Mr Gilmore draws your attention to the fact that this was an offence of theft, the conduct which gave rise to the theft occurred in the workplace. He makes the point that that standard of conduct fell well short, or well below what would be expected of a social care worker, and for that reason alone would call into question her suitability to remain on the Register. He goes on to make points about whether such conduct is undermining of confidence, not only the Registrant, but also in the social care profession, and he has highlighted the fact that the sentence imposed by the Criminal Court was not a modest sentence, it was not at the low end of the spectrum, but because it was higher up the spectrum it reflects the Court's view that this was a matter of some significance.

So, I would invite you to dwell upon those submissions and to decide whether, for yourself, whether they are appropriate and acceptable submissions. But ultimately this boils down to a question of whether you are satisfied that there was misconduct as defined in the way that I have set it out for you, whether that misconduct has been established on the balance of probabilities.

Sanction

You have reached the third and final stage of the process today, the sanction stage. Obviously, in the absence of the Registrant it is difficult to ascertain what, if anything, could be put in the scales in her favour. Mr Gilmore, however, taking a characteristically fair approach to this matter, has endeavoured to set out for you some of the mitigating factors, if you like, which can be said in favour of the Registrant. He has highlighted, in particular, her good character up until now, no previous disciplinary history, the fact that there was no evidence of direct harm caused to any service user and, perhaps significantly, her attitude during the criminal proceedings when she appeared to plead guilty at the very first opportunity before the Magistrates' Court.

Now, as Mr Gilmore's approach to this in setting those factors out fairly for you reflects the principles that are to

be found within the Rules and in particular Rule 25(2) of Schedule 2 of the Rules. There you will see the factors that you must take into account when deciding on the appropriate sanction to impose. Sanction is not imposed for the purposes of punishment, the factors that do or should guide your approach to sanction are the seriousness of the misconduct, the protection of the public, the public interest in maintaining confidence in social care services, and importantly, the issue of proportionality. You should not impose a sanction other than to take those factors into account, and no greater sanction is required other than to satisfy those factors.

In order to ensure that you take a proportionate approach to these matters, as Mr Gilmore again fairly says, you work through the available sanctions in ascending order of severity, and that means you start with the question of an admonishment taking into account your findings of fact and the seriousness of the Registrant's misconduct, would an admonishment satisfy the requirements for a sanction in this case. If you decide not, you must establish reasons for your decision before moving on to consider suspension and so on.

Again, you will see within the Indicative Sanctions document a list of potential mitigating and aggravating factors that you can look through and consider. I would draw your attention, in particular, to a section in the Indicative Sanctions bundle, or Indicative Sanctions document under the heading "Dishonesty" at page 16. If I can read from 5.10, the Code of Practice states that "Social care workers must be honest and trustworthy ...", that's Code of Practice 2.1, and you have, of course, found that paragraph 2.1 of the Code is engaged.

It goes on to say: "Social care workers must recognise and use responsibly the power that comes from their work with people who use services and their carers.

Dishonesty is particularly serious because it may undermine trust in social services. Examples could include cases of theft ...", as here, "... fraud or embezzlement, lying to a manager about whether a work task has been undertaken, improperly amending records relating to people who use services, falsifying evidence or submitting or providing false references and information on a job application. The public must be able to place complete reliance on the integrity of Registrants."

That seems to be the most pertinent aspect of that Guidance in relation to dishonesty, but there is other paragraphs which you might consider relevant. So, those are the matters I commend you to consider.

Ultimately, and for good reason, Mr Gilmore, on behalf of the Council, doesn't say that you should impose any particular sanction, at the end of the day that is a matter for you to weigh up and decide upon taking all of those factors into account.

Right of Appeal

You have the right to appeal this decision to the Care Tribunal. Any appeal must be lodged in writing within 28 days from the date of this Notice of Decision.

You should note that the Conduct Committee's decision takes effect from the date upon which it was made. The effect of this decision is that your entry in the Register has been removed with immediate effect.

You are prohibited from working as a social care worker in any of the following positions:

- Care staff in a children's home, residential care home or nursing home.
- Manager of a residential care home, day care setting or domiciliary care agency.

It is **compulsory** for the above social care workers to be registered with the Northern Ireland Social Care Council in order to work. This is pursuant to the Northern Ireland Social Care Register (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013.

In accordance with Schedule 3, Paragraph 9 of the NISCC (Conduct) Rules, you may not apply to be restored to the Register within three years from the date of removal. This does not affect your right to appeal the Committee's decision to the Care Tribunal.

C Chamberlain

Committee Manager

24 March 2016

Date