

Notice of Decision of the Northern Ireland Social Care Council's Fitness to Practise Committee

REDACTED

Name: Catherine Walker

SCR No: 6004930

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **24 May 2018**, made the following decision about your registration with the Northern Ireland Social Care Council:

The Committee found the facts proved;

The Committee found that your fitness to practise is impaired by reason of your convictions and health;

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

Particulars of the Allegation:

That, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended):	
On 19 April 2016, you were convicted of the following charges at Laganside Magistrates' Court:	
1.	[The Registrant] on 08/08/2015 in the County Court Division of Belfast, unlawfully assaulted [Injured Party A], contrary to section 42 of the Offences Against the Person Act 1861.
2.	[The Registrant] on 08/08/2015 in the County Court Division of Belfast, used disorderly behaviour in a public place, namely within the vicinity of Blackstaff Square, Belfast, Antrim, Northern Ireland BT2 7GE, contrary to Article 18(1)(a) of the Public Order (Northern Ireland) Order 1987.
3.	[The Registrant] on 08/08/2015 in the County Court Division of Belfast, assaulted [Injured Party B], a constable in the execution of his duty, contrary to section 66(1) of the Police (Northern Ireland) Act 1998.
4.	[The Registrant] on 08/08/2015 in the County Court Division of Belfast, without lawful excuse damaged clothing belonging to [Injured Party A], intending to damage such property or being reckless as to whether such property would be damaged contrary to Article 3(1) of the Criminal Damage (Northern Ireland) Order 1977.
5.	[The Registrant] on 08/08/2015 in the County Court Division of Belfast, assaulted [Injured Party C], a constable in the execution of his duty contrary to section 66(1) of the police (Northern Ireland) Act 1998.
6.	[The Registrant] on 08/08/2015 in the County Court Division of Belfast, assaulted [Injured Party D], a

constable in the execution of his duty contrary to section 66(1) of the police (Northern Ireland) Act 1998.

And that by reason of the matters set out above, your fitness to practise is impaired because of your convictions AND / OR your physical or mental health.

Procedure:

The hearing was held under the health procedure.

Preliminary Matters

Service

The Registrant was neither present nor represented at the hearing. The Committee was satisfied that a Notice of Hearing was sent to the Registrant by Special Delivery post on 18 April 2018, in accordance with the NISCC Fitness to Practise Rules 2016 ('the Rules'). The Committee notes that Royal Mail left a "while you were out card" at the Registrant's registered address on 19 April 2018, and the postal package was subsequently returned by Royal Mail to NISCC on 14 May 2018, indicating that the post had not been collected. On 14 May 2018, NISCC sent to the Registrant, by way of first class post, notice of today's hearing.

The Committee reminded itself of the provisions of Rule 3 of the Rules and is satisfied that the Notice of Hearing has been served in accordance with its requirements.

Proceeding in the Absence of the Registrant

Ms Kelso made an application for the hearing to proceed in the absence of the Registrant, under Paragraph 15 of Schedule 2 of the Rules. She referred the Committee to the case of *Adeogba & Visvardis v GMC, 2016*, and submitted that the Registrant has voluntarily absented herself from the hearing. She said that the Registrant had not requested a postponement and there was public interest in serious allegations of this nature being dealt with in an expeditious manner. She reminded the Committee that this matter was first referred to NISCC in June 2016 and that the incident involved in the allegations took place in August 2015.

The Committee heard and accepted the advice of the Legal Adviser.

The Committee was mindful that the discretion to proceed in the absence of the Registrant should only be exercised with the utmost care and caution. The Committee was satisfied that reasonable efforts had been made to notify the Registrant of the hearing and determined that the Registrant had voluntarily waived her right to be present. The Committee concluded that no useful purpose would be served in adjourning the proceedings. The Committee balanced the interests of the Registrant against the wider public interest and, in all the circumstances, resolved to hear the case in the absence of the Registrant.

Application to Admit Hearing Bundle

The Committee heard an application from Ms Kelso under Paragraph 12 of Schedule 2 of the Rules to admit a bundle of papers into evidence. The Committee was satisfied that the bundle met with the requirements of relevance and fairness and admitted the bundle (Exhibit 1).

Finding of Facts

The Committee heard a submission from Ms Kelso in relation to the allegation against the Registrant. In relation to the six Particulars of the Allegation, she referred the Committee to the certificates of conviction arising out of common assault, disorderly behaviour, assault on police and criminal damage, all of which occurred on 08 August 2015. As regards the background to these events, Ms Kelso advised that a referral had been made to the Council by Detective Inspector Peter Galbraith on 07 June 2016. In a letter from him on 17 June 2016, he provided a background to the incident on 08 August 2015, and the subsequent convictions against the Registrant when she pleaded guilty at Laganside Court on 19 April 2016. Arising out of the convictions, the Registrant received a one month's prison sentence suspended for six months, being concurrent for the six convictions.

Ms Kelso further referred the Committee to an email received by the Council from the Registrant, dated 20 June 2016. In this email, the Registrant confirmed that on the date in question and due to her intoxication, she had resisted police and bar staff. The Registrant further submitted that her actions were out of character and that she wholly regretted what had happened. She provided assurance that these events would never happen again.

[REDACTED]

The Committee heard and accepted the advice of the Legal Adviser.

In considering the six Particulars of the Allegation, the Committee took into account the following documentation:

- Six certificates of conviction against the Registrant, arising out of an incident on 08 August 2015, involving one count of common assault, one count of disorderly behaviour, three counts of assault on police and one count of criminal damage;
- Letter from Detective Inspector Peter Galbraith to the Council dated 17 June 2016;
- Email from the Registrant to the Council dated 20 June 2016.

The Committee notes that the Registrant pleaded guilty to the aforementioned criminal charges and, in addition, notes her acceptance of the allegations in her email of 20 June 2016. In all of the circumstances, the Committee was satisfied, therefore, that the Particulars of the Allegation have been proved on the balance of probabilities, and that the certificates of conviction are conclusive proof of the facts so found.

[REDACTED]

Taking all of this into account, the Committee finds proved, on the balance of probabilities, the facts in accordance with Rule 4 (1) (c) of the Rules.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise is impaired.

The Committee heard and accepted the advice of the Medical Adviser and Legal Adviser.

The Committee heard submissions from Ms Kelso. She advised that there were no formal admissions from the Registrant in relation to the allegations. Ms Kelso referred the Committee to the certificates of conviction and the medical evidence from Dr [A]. She submitted that, taking this evidence into account, the Registrant's fitness to practise is currently impaired. She reminded the Committee that impairment has been defined in the Rules as circumstances which call into question the suitability of a registrant to remain on the Register without restriction or at all. She referred the Committee to the Standards of Conduct and Practice for Social Care Workers, which she suggested had been breached at Standard 5: 5.8 and Standard 6: 6.5 and 6.6. As regards the issue of remediation, she noted the email from the Registrant dated 20 June 2016. She said that although the Registrant states her remorse for the events on 08 August 2015, she qualifies this by indicating that, at the time, she was on annual leave and therefore not on duty at work. Ms Kelso submitted that this is immaterial as the Registrant's convictions have brought the reputation of the social care profession into disrepute. The Council, on a number of occasions, requested the Registrant to provide information as regards [REDACTED] and this has not been provided. Ms Kelso said that, taking this into account, there is no assurance from the Registrant as regards non-repetition of her actions or remediation. In addition, Ms Kelso noted that the Registrant had failed to disclose her convictions to her then employer, which also gives rise to concerns as regards future repetition. In considering public interest, Ms Kelso submitted that the public must have confidence in NISCC as a regulator and in its maintaining the Register in an appropriate and safe manner, and it would therefore be unacceptable for a Registrant convicted as in this case to remain on the Register without restriction.

In considering whether the Registrant's fitness to practise is impaired, the Committee took into account the relevant provisions of the Rules, along with the Making a Determination of Impaired Fitness to Practise Guidance for Committees on Remediation. The Committee first referred itself to the reasons for the Registrant's alleged impairment of fitness to practise. The six criminal certificates of conviction, along with the information from the PSNI, show that on 08 August 2015 the Registrant, apparently due to her intoxication, was involved in serious incidents of assault and criminal damage.

In considering this, the Committee had regard to the Standards of Conduct and Practice for Social Care Workers and found the Registrant's actions, as evidenced in her criminal convictions, to be in breach of the following provisions:

Standard 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.

Standard 6: As a social care worker, you must be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills. This includes:

- 6.3 Being personally accountable for your actions and able to explain and account for your actions and decisions;
- 6.5 Informing your employer or the appropriate authority in a timely manner about any personal difficulties that might affect your ability to do your job competently and safely;
- 6.6 Informing NISCC and any employers you work for at the first reasonable opportunity if your fitness to practise has been called into question. This includes ill-health that affects your ability to practise, criminal convictions, disciplinary proceedings and findings of other regulatory bodies or organisations.

The Committee is therefore in no doubt that the Registrant's criminal convictions provide evidence as regards the Registrant's fitness to practise being impaired.

The Committee then went on to consider the provisions of Paragraph 29 (3) (d) of Schedule 2 of the Rules which states: 'where the Committee is considering whether a Registrant's fitness to practise is impaired by reason of health, the Committee...shall, subject to sub-paragraph (e) below, consider any medical reports or other medical evidence on which the alleged impairment of fitness to practise has been caused or substantially contributed to, by the Registrant's physical or mental ill health.

[REDACTED]

The Committee then went on to consider whether the impairment is capable of remediation and whether the impairment had been remediated. The Committee has no evidence from the Registrant that [REDACTED].

[REDACTED]. The Committee, therefore, is not satisfied that the Registrant has remediated both her behaviour and her health issues and there is therefore at a risk of repetition of her actions in the future.

The Committee finally took into account the public interest involved in this case. Whilst there is no evidence that the Registrant's actions placed service users at risk, the Committee considers that public confidence in the profession would be undermined if a finding of impairment was not made. The six criminal convictions against the Registrant, arising out of her actions on 08 August 2015, related to behaviour by the Registrant in a public place against a member of the public and the police. Although the Registrant has expressed her remorse for what happened, the Committee considers that public confidence in the profession would be undermined if a finding of impairment was not made in these circumstances.

Therefore, the Committee considers that the Registrant's fitness to practise remains currently impaired by reason of her convictions and health, and that [REDACTED].

Sanction

In reaching its decision on sanction, the Committee considered the submissions of Ms Kelso, on behalf of the Council, and had regard to all of the evidence in this case. In particular, the Committee took into account [REDACTED] and the email from the Registrant dated 20 June 2016.

It accepted the advice of the Legal Adviser.

The Committee has applied the principles of fairness, reasonableness and proportionality, weighing the public interest with the Registrant's interests, and taking into account any aggravating and mitigating factors in the case. The public interest includes the protection of members of the public including service users, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour within the profession. The Committee took into account its powers under Paragraph 26 of Schedule 2 of the Rules in relation to the sanctions available to it, and also had regard to the Council's Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'), bearing in mind that the decision on sanction is one for its own independent judgement.

The Committee recognises that the purpose of sanction is not to be punitive, although a sanction may have a punitive effect. The Committee considered the aggravating and mitigating factors in this case.

Warning – the Committee considered the issue of a Warning in this case. It bore in mind that the imposition of a Warning for a period of time would not protect the public from the risk of repetition. The Registrant's impairment of fitness to practise is not at the lower end of the spectrum, nor are the circumstances such that the Committee would be confident that this sanction would provide adequate public protection as far as the Registrant's suitability is concerned, bearing in mind that a Warning would entitle the Registrant to work unrestricted as a social care worker. The Committee has no evidence of corrective steps being taken by the Registrant, nor does it have any references or testimonials as to her character and current circumstances. The Committee notes that there is no evidence before it as regards the Registrant's insight into her behaviour on 08 August 2015 or [REDACTED]. Taking into account [REDACTED], the Committee notes the discrepancies between the Registrant's account of [REDACTED], which raises concerns. [REDACTED] despite being asked for this by NISCC. Therefore, a Warning would not be appropriate or proportionate in these circumstances.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Committee noted the Guidance at Paragraph 4.13, which states that conditions may be appropriate in cases involving particular areas of a registrant's performance and where a Committee is satisfied that it is appropriate for an individual to remain on the Register. However, the Committee cannot be satisfied that this Registrant has displayed insight into [REDACTED] and its impact on her social care practice and her social behaviour. The Registrant did not attend the hearing today or provide any positive responses to the issues raised in the allegations. The Committee concluded that a Conditions of Practice Order would not be sufficient to meet the public interest in this matter given the seriousness of the Registrant's departure from the standards expected of a

registered social care worker. The Committee has no information as regards the Registrant's current employment and therefore could not formulate conditions which would adequately protect the public.

Suspension – the Committee did not consider that a Suspension Order would be an appropriate or proportionate sanction in this case. The Committee determined that this was a serious incident and took into account the Guidance at Paragraph 4.19, which states:

'Suspension from the Register may be an appropriate sanction for impairment which while very serious, is not so serious as to justify removal from the Register; for example, where there has been an acknowledgment of failings and where a Committee is satisfied that the behaviour is unlikely to be repeated, and the Registrant has no psychological or other difficulties preventing them from understanding and seeking to remedy the failings and the failings are realistically capable of being remedied, then suspension may be appropriate.'

The Committee determined that a Suspension Order would not address the risk of repetition [REDACTED]. The Committee considers the Registrant's criminal convictions to be serious and evidenced behaviour that is fundamentally incompatible with unrestricted registration as a social care worker. The Committee took into account the Registrant's persistent lack of insight into [REDACTED]. As previously highlighted above, the Registrant failed to respond to a number of requests from NISCC in relation to the provision of references and testimonials, and evidence of attendance with [REDACTED]. In the view of the Committee, the interests of service users and the public would not be sufficiently protected by suspension. The Registrant has not presented any evidence to the Committee that she could resolve or remedy the cause of [REDACTED] during a period of suspension.

Removal – the Committee concluded that given the seriousness of the Registrant's impaired fitness to practise, the lack of evidence of remediation and the risk of her repeating her actions, a Removal Order is the only sanction sufficient to protect the public and maintain public confidence in the social care profession and the NISCC as its regulator. The Committee considered that the Registrant's actions constitute a serious departure from the expected standards. The Registrant's criminal convictions involved serious matters of assault and criminal damage. The Committee concluded that, in the absence of any evidence of remediation, allied with the findings of [REDACTED], there is a continuing risk to service users. [REDACTED] and her lack of engagement with NISCC during its investigation is not of assistance in this respect. The Committee notes that there is no previous disciplinary history with the Council and it accepts that there is no evidence to put against her character. The Committee considered the potential devastating impact of a Removal Order on the Registrant, but concluded that the safety of service users was more important than the impact on the Registrant.

The Committee also considered that public confidence in the social care profession would be undermined if a social care worker who behaved in such an inappropriate way and who continues to [REDACTED] was allowed to remain on the Register.

The Committee concluded that a Removal Order was a suitable, appropriate and proportionate sanction which will be imposed on the Registrant's registration with immediate effect.

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 Fitness to Practise 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.

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

1. A member of care staff at a:
 - a.) Children's home;
 - b.) Residential care home;
 - c.) Nursing home;
 - d.) Day care setting;
 - e.) Residential family centre.
2. A person who is supplied by a domiciliary care agency to provide personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
3. A manager of a:
 - a.) Residential care home;
 - b.) Day care setting;
 - c.) Residential family care centre; or
 - d.) 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 Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013 and the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers (Amendment) Regulations (Northern Ireland) 2017.

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

P.P. M. Stenbust

Committee Manager

04 June 2018

Date