

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

Name: Paul Oliver John Greenwood

SCR No: 6032837

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **03 August 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 you convictions;

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

Particulars of the Allegation (as amended):

That, on 22 March 2018, whilst being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), and whilst employed as a Home Care Worker at Lydian Care, you were convicted of the following offences at the Magistrates' Court:

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|----|---|
| 1. | Defendant on 22/1/18, stole money to the value of £15 or thereabouts belonging to [Service User A], contrary to Section 1 of the Theft Act (Northern Ireland) 1969. |
| 2. | Defendant on 23/1/18, stole money to the value of £15 or thereabouts belonging to [Service User A], contrary to Section 1 of the Theft Act (Northern Ireland) 1969. |

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

Procedure:

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Registrant was neither present nor represented. The Council was represented by Mr Anthony Gilmore, Solicitor, Directorate of Legal Services.

Service

The Notice of Hearing and hearing bundle were sent via Special Delivery post to the Registrant's registered address on 28 June 2018. The Committee was told that Royal Mail had attempted to deliver the package on 29 June 2018 but was informed that the recipient was no longer at that address.

Royal Mail returned the package to NISCC on 02 July 2018 marked 'addressee gone away'. This was then resent to the Registrant's registered address by first class post on 02 July 2018.

The Committee Clerk emailed the Registrant, to an email address provided by him previously to NISCC, on 17 July 2018 advising that the served documents had been returned to the Council and requested the Registrant to make urgent contact. The Registrant responded to the Committee Clerk's email on 20 July 2018 and provided his new address details.

The Notice of Hearing and bundle were sent to the Registrant via encrypted email on 23 July 2018. An email confirming that delivery to the Registrant's email address was complete was received on 23 July 2018 at 08.39. The Notice of Hearing and bundle were also sent to the Registrant's new address by Special Delivery post on 23 July 2018.

There had been no contact from the Registrant in response to this documentation.

Having regard to the above efforts made by NISCC, the Committee was satisfied that service of the proceedings had been effected in accordance with Rule 3 and Paragraph 5 (2) of Schedule 2 of the NISCC Fitness to Practise Rules 2016 ('the Rules').

Proceeding in the Absence of the Registrant

In deciding whether it was fair and appropriate to proceed in the absence of the Registrant, the Committee heard a submission from Mr Gilmore and heard and accepted the Legal Adviser's advice. The Registrant had not requested an adjournment of the proceedings to a later date in order to attend or be represented. The Committee determined that the Registrant had, by virtue of his failure to engage with the regulatory proceedings against him, waived his right to appear before the Committee. The allegation concerned the Registrant's conviction for theft in the course of his duty from a vulnerable service user in his care. The Committee considered that the allegations were serious and that no useful purpose would be served by adjourning the proceedings to a later date. Moreover, the Committee was of the view that there was a strong public interest in determining the case in the Registrant's absence and that his interests were outweighed by the public interest.

Application to Amend the Particulars of the Allegation

Mr Gilmore made an application to amend the Particulars of the Allegation to insert "22 March 2018" for "19 April 2018". The Committee heard and accepted the Legal Adviser's advice. The Committee granted the application. The amendment to the allegation caused no injustice to the Registrant and simply reflected the date of conviction as set out in the relevant certificates of conviction.

Application to Admit the Hearing Bundle

The Committee heard an application from Mr Gilmore to admit a hearing bundle into evidence. The Committee acceded to the application on the grounds that the hearing bundle (Exhibit A) was said to contain relevant evidence in connection with the allegations under consideration.

Background

The Registrant is registered on Part 2 of the Register.

The facts giving rise to the Allegation concern the Registrant's conviction before Downpatrick Magistrates' Court on 22 March 2018 in respect of two counts of theft from Service User A contrary to section 1 of the Theft Act (NI) 1968. At a subsequent hearing, before the same Court, the Registrant was sentenced to four months' imprisonment in total which was suspended for two years. An excerpt from the *Down Recorder* reported that:

'He [the Registrant] was caught taking around £15 from the drawer [of Service User A] on January 22 and again the following day after the vulnerable man's brother became suspicious about missing cash.'

'The court heard that the man's brother noted the serial numbers of bank notes before placing them in a drawer and set up a camera.'

'Video footage showed [the Registrant] taking money from the drawer, which he later told police he needed to put diesel in his car.'

At the material time, the Registrant was working as a Home Care Worker in the employment of Lydian Care Limited. The papers record that the Registrant was arrested while on shift on 23 January 2018. The Registrant was suspended from work with Lydian as a result of his arrest. The Committee was unaware, from the papers, as to what action, ultimately, was taken by the Registrant's employers following his subsequent prosecution.

Evidence

In considering the Particulars of the Allegation, the Committee took into account the hearing bundle (Exhibit A) which contained, among other matters, the certificates of conviction.

Finding of Facts

The Committee considered the certificates of conviction. They recorded that the Registrant had pleaded guilty at the magistrates' court on 22 March 2018 to two counts of theft. On 19 April 2018, the Registrant was sentenced to a term of four months' imprisonment on each count, suspended for two years.

The Committee determined that the certificates of conviction established conclusively the facts underlying the Registrant's conviction for theft, while working as a Home Care Worker, on two dates, namely 22 and 23 January 2018 in the total sum of £30 or thereabouts from Service User A.

Fitness to Practise

The Committee heard a submission from Mr Gilmore who invited the Committee, in light of the convictions proved, to find that the Registrant's fitness to practise was currently impaired. The Committee heard and accepted the Legal Adviser's advice.

The Committee considered whether, by reason of the Registrant's conviction, his fitness to practise is currently impaired.

The Registrant had been convicted, on his guilty pleas, of two serious offences involving the theft of money from a vulnerable service user. The Registrant had admitted taking the money, in the course of his duty as a care worker, while visiting Service User A in his home and using the money for his own needs, namely the purchase of diesel for his car. The Registrant's actions, in the Committee's view, amounted to a very serious breach of trust. The Committee considered that such conduct was not easily remediable. In order to be satisfied that such conduct would not be repeated in the future, the Committee observed, as a minimum, that the Registrant would have been required to place before it detailed documentary evidence of reflection on the seriousness of his actions and his efforts, in his personal and professional life, to ensure that there would be no reoccurrence of his offending behaviour.

The Registrant had not engaged in the regulatory proceedings against him. He had not attended at the hearing, nor had he instructed someone to appear to represent him before the Committee. The Committee, therefore, had no basis on which to be satisfied that the Registrant had demonstrated insight into his offending or that he would not repeat the dishonest conduct which had resulted in his convictions.

In deciding the issue of current impairment, the Committee had regard to the formulation provided by Dame Janet Smith in her Fifth Report in respect of the Shipman Inquiry, quoted with approval by Cox J in *CHRE v NMC and Grant* [2011] EWHC 927 Admin. The Committee considered that all the limbs of Dame Janet's formulation had been engaged by reason of the Registrant's offending and the absence, on his part, of any evidence bearing on the question of his insight or remedial action. Accordingly, the Committee was satisfied that the Registrant:

- a) Had acted in the past and is liable in the future to act in a manner so as to put a vulnerable person at unwarranted risk of harm; and
- b) Had acted in the past and is liable in the future to bring the social care profession into disrepute; and
- c) Had acted in the past and is liable in the future to act in a manner so as to breach one of the fundamental tenets of the social care profession; and
- d) Had acted in the past dishonestly and is liable to act dishonestly in the future.

The Committee also had regard to the NISCC Standards of Conduct and Practice for Social Care Workers. In the Committee's judgement, by his actions, the Registrant had breached the following Standards:

Standard 1: As a social care worker, you must protect the rights and promote the interests and wellbeing of service users and carers. This includes:

1.2 Treating people with consideration, respect and compassion.

Standard 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.

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

5.2 Exploit service users, carers or colleagues in any way;

5.3 Abuse the trust of service users and carers or the access you have to personal information about them or to their property, home or workplace;

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:

6.1 Meeting relevant standards of practice and working in a lawful, safe and effective way;

6.3 Being personally accountable for your actions and able to explain and account for your actions and decisions;

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;

6.12 Co-operating with any investigation or formal inquiry into your conduct, the conduct of others, or the care or services provided to a service user where appropriate.

The Committee was also of the view that public confidence in the social care workforce would be seriously undermined if a finding of current impairment was not made.

For these reasons, the Committee is satisfied that the Registrant's fitness to practise is currently impaired by reason of his convictions.

Sanction

The Committee heard a submission from Mr Gilmore on the question of sanction. It heard and accepted the Legal Adviser's advice.

The Committee first considered the mitigating factors and noted, in that regard, that the Registrant had no previous disciplinary record with NISCC and no previous findings in respect of theft with regard to his employer. The Committee also noted that, in the course of the proceedings in the magistrates' court, the Registrant had expressed remorse and regret for his actions and had pleaded guilty without the need for a contested hearing.

The Committee next turned to consider the aggravating factors. The Registrant had committed two offences which involved deliberate dishonesty. He had abused his position of trust to steal money from a service user in their home who had trusted the Registrant to deliver care. The Registrant had not provided any evidence of insight or a recognition of the risk of harm caused by him to the service user in question. The Registrant's actions were reprehensible and represented a serious departure from the NISCC's Standards of Conduct and Practice.

Warning – the Committee considered that none of the factors that would justify the imposition of a Warning were present in this case. The Committee was also of the view that such a sanction would be insufficient to mark the seriousness of the Registrant's offending and that the public in general and vulnerable service users in particular would be placed at risk if the Registrant was permitted to practise on an unrestricted basis.

Conditions of Practice Order – the Committee reminded itself of the serious nature of the conduct to which the Registrant had pleaded guilty before a magistrates' court. He had entered the home of a vulnerable service user and had taken for his own purposes, in the course of his duties, money belonging to a service user. The Registrant had not taken any steps, in the period during the regulatory proceedings against him, to demonstrate remorse for his actions nor had he sought to persuade the Committee that such actions would not be repeated in the future. In addition, the Committee had no evidence of the Registrant's current employment circumstances or whether he still worked in the social care field. Given these factors, the Committee decided that no workable, enforceable or verifiable conditions could be identified that would attach to the Registrant's registration that would adequately protect the public.

Suspension – the Committee then considered whether it would be proportionate to apply a Suspension Order. The factors, set out in the Indicative Sanctions Guidance (June 2017) ('the Guidance'), were examined closely by the Committee. A report of the proceedings, in the Down Recorder, before the magistrates' court recorded that the Registrant was 'extremely remorseful' for his actions. However, the Committee noted that the Registrant had not sought to engage with the regulatory proceedings against him. He had not demonstrated any evidence of insight or remedial actions that would address the serious misconduct engaged in by the Registrant as evidenced by his convictions. While the Registrant had offended over a confined period of two days, the Committee was of the view that nonetheless his actions were of a most serious kind. The Committee was in no doubt that he had abused his position of trust as a social care worker in order to steal money from a vulnerable service user in his care.

The Committee considered that, in the absence of demonstrable evidence touching upon insight and remedial action, a real risk remained that the Registrant would repeat the conduct complained of which had resulted in his convictions. The Committee also had regard to Paragraph 5.15 of the Guidance, in particular where it stated 'Users of services rely upon the professional's trustworthiness, which they are entitled to assume because of the professional's training and registration. People who use services have the right to be protected from a social care worker who seriously abuses the trust placed in them...for financial gain...contrary to the interests of the

person using the services.' That guidance, to the Committee's mind, seemed to be particularly apt in the circumstances of this case.

The Committee concluded that the Registrant's actions were fundamentally incompatible with continued registration. It seemed to the Committee that imposing a Suspension Order, in the absence of evidence to support such a sanction, would undermine public confidence and would fail to declare and maintain proper standards of conduct and performance in the social care workforce.

Removal – the Committee therefore decided that the only appropriate and proportionate sanction to impose in the particular circumstances of this case was a Removal Order. The Registrant had acted in a reprehensible fashion and in stealing from a vulnerable service user, for whom he was charged to provide care, had fallen far short of the standards to be expected from a member of the social care workforce. The Registrant had demonstrated no insight, nor had he produced evidence of remedial action that would reassure the Committee that he would not repeat his dishonest behaviour in the future. As such, the Committee considered that the Registrant's conduct was fundamentally incompatible with continuing registration and that the only proportionate response that would adequately protect the public and would uphold the public interest would be to remove the Registrant from the Register.

The Committee also ordered that the Interim Suspension Order in place in respect of the Registrant's registration be revoked with immediate effect and replaced with the Removal Order.

Legal Advice Given

Service

The Committee Clerk has very kindly taken me to the documents referred to by Mr Gilmore and I can now advise you on the question of service. The proceedings generally that are contemplated against Mr Greenwood are governed by the NISCC Fitness to Practise Rules 2016 and by virtue of Schedule 2, and particularly Schedule 2 Paragraph 5 (1), the Council is required to observe certain procedural requirements in respect of the giving of notice in respect of a hearing, in respect of which the Registrant's fitness to practise will be alleged to be impaired. By virtue of Paragraph 5 (2) it is indicated that a hearing date will be fixed for hearing and should not be fixed any less than 28 days from the sending of the Notice except with the agreement of the Registrant. You will note in this case that the hearing bundle and Notice of Hearing was sent on 28 June which is in excess, as far as I can ascertain, of the 28 day requirement laid out in Paragraph 5 (2).

By virtue of Rule 3 of the Rules, it is made clear that any reference to the sending of a notice to any person is a reference to it being sent, in the case of a Registrant, to his home address or if the last known address differs from the address in the Register, then the Registrant's last known address. Any such Notice shall be treated as having been served on the day after it was posted or mailed. In this particular case, on 28 June, the Council had no information as to the Registrant's registered address, save for that provided by him to the Council and of

course on that basis, on 28 June, the Council delivered the Notice of Hearing to the Registrant's registered address. By virtue of that fact, and that fact alone, it is my advice to you and your colleagues that you can safely proceed and conclude that service has been effected in the particular circumstances of this case. By way of insight, the additional efforts made by the Council is obviously to the Council's credit but it doesn't bear directly on the question of service and whether it has been effected. The onus of course, as Mr Gilmore has said, rests upon the Registrant to advise the Council in a timely fashion of any change of address. On 28 June, the Council sent that Notice to his registered address and therefore in terms of service at least it is my advice to you that service has been effected in this case.

Proceeding in the Absence of the Registrant

Having been satisfied that service in this case has been effected in accordance with the Rules you must now consider the discreet issue as to whether it is fair and appropriate to proceed to hear and determine this case in Mr Greenwood's absence. As a general observation, the case law has made plain that the decision of any body or regulatory body such as yours, to proceed in the Registrant's absence is a discretion which is severely constrained and case law has also made it plain that in order for you to proceed in the absence of a Registrant you must do so only after having exercised the utmost care and caution. The Court of Appeal in the case of *Jones* laid out a number of factors which might bear on the question of whether to proceed in the Registrant's absence and those factors which were identified are as follows:

First, the nature and circumstances of the Registrant's absence and in particular whether the behaviour may be deliberate and voluntary and thus a waiver of the right to appear; next, whether an adjournment is likely to result in the Registrant attending the proceedings at a later date; next, the likely length of any such adjournment; next, whether the Registrant, despite being absent, wished to be represented at the hearing or whether he has waived that right; next, the extent to which any representative will be able to receive instructions from and present the case on behalf of the absent Registrant; next, the extent of the disadvantage to the Registrant in not being able to give evidence having regard to the nature of the case; finally, insofar as is relevant, the general public interest and in particular the interest of any victims or witnesses that a hearing should take place within a reasonable time of the events to which it relates.

It might be said that there will be some disadvantage to a Registrant if you decide to proceed to hear and determine this case in his absence. But you must balance his interests with the interests of the regulatory body to have an expectation that cases brought before it will be conducted expeditiously. You must also balance the general public interest, which of course includes the protection of the public in general and vulnerable service users in particular, together with upholding and maintaining proper standards of conduct and behaviour.

The case to which Mr Gilmore referred, the case of *Adeogba*, is indeed a very relevant authority in that regard in which the Court of Appeal made clear as follows:

"It is important that the analogy between criminal prosecution and regulatory proceedings is not taken too far. Whereas, in criminal proceedings there is a power of compulsion to bring a defendant before a criminal court and

that remedy is not available in the context of regulatory proceedings."

The Court of Appeal was also at pains in the case of *Adeogba* to stress essentially the essential public protection and public interest factors which really lie at the heart of fitness to practise proceedings and cautions Panels not to, as it were, consider that they were acting in some criminal fashion, which of course you are not, the public interest of course is very important in these types of proceedings.

You must strike a careful balance between the three competing interests and in your judgement identify how those different considerations might properly be weighed.

Application to Amend the Particulars of the Allegation

There is no injustice caused to the Registrant. It is slightly artificial in the sense that you haven't seen the Certificates as yet but you will have to take this perhaps slightly blind but I certainly can confirm that Mr Gilmore is correct, the date of conviction in this case is 22 March and it would be my respectful advice to you that you should allow the amendment to change the allegation in that regard from "19 April" to "22 March 2018".

Findings of Fact

Mr Gilmore has directed me, and of course you as a Committee, to that provision of the Rules, that Paragraph 12 (5) makes it clear that:

"Subject to sub-paragraph (7), where a Registrant has been convicted of a criminal offence, the findings of fact and certification of any UK Criminal Court or a conviction (at any time) elsewhere of an offence which, if committed in the United Kingdom would constitute a criminal offence, shall be conclusive proof of the facts or conviction so found."

The only evidence by virtue of Paragraph 12 (7) that a Registrant may adduce to undermine any findings of fact applies where evidence that the Registrant is not the individual against whom such findings were made or a certification of a successful appeal against conviction of any UK criminal court or any relevant regulatory body or the Disclosure and Barring Service. In this case you have admitted the hearing bundle, that hearing bundle contains, on the face of it, two Certificates of Conviction which record that on 22 March the defendant was convicted of theft, contrary to section 1 of the Theft Act on 22 and 23 of January. The Certificate was before a court of competent jurisdiction in the United Kingdom, namely the Magistrates' Court sitting at Downpatrick, and therefore in the absence of any other evidence you are entitled to rely upon this provision to establish conclusively that Mr Greenwood was convicted of the offences and also to establish conclusively the facts which underlie those convictions.

Fitness to Practise

Before you and your colleagues retire at this, the second stage of the proceedings in relation to Paul Oliver John Greenwood, I am required, as you have indicated, to give you some brief advice in relation to those matters which you can at this stage properly take into account.

If I may say so, Mr Gilmore very carefully has taken you through the definitions in respect of impairment which are provided for in the Rules, I don't seek to repeat those unless of course you wish me to do so. He has also taken you, if I may say so, very carefully through those matters which must be considered by your Committee, set out for you at Paragraph 24 (3) and those have been addressed individually, (a) through to (f). So again I don't wish to repeat any of what has been said to you in submissions. Rather, I briefly, hopefully, would like to take you through those matters which have a general bearing upon your approach to the question of impairment.

You have already in this case indicated that the facts underlying this matter have been proved by virtue of the Certificates of Conviction contained in the hearing bundle. What you must now do in consequence is to consider whether in light of that conviction or convictions if the Registrant's fitness to practise is impaired. It is important for you to note that the test of impairment is expressed in the present tense, that is to say fitness to practise 'is' impaired. The Court of Appeal noted in the case of the *GMC v Meadow*:

"The purpose of fitness to practise procedures is not to punish the practitioner for past misdoings, but to protect the public against the acts and omissions of those who are not fit to practise. The [Panel] thus looks forward not back. However, in order to form a view as to the fitness of a person to practise today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past".

Thus, although your task is not to punish for past misdoings, you do need to take account of past acts or omissions in determining whether a Registrant's fitness to practise is currently impaired. In the case of *Cohen v General Medical Council*, the High Court stated:

"That it was 'critically important' to appreciate the different tasks which Panels undertake at each of step in the adjudicative process."

In this particular element of the proceedings you are concerned with the issue of whether in light of the convictions proved the fitness of the Registrant to practise has been impaired, using the words of *Cohen*: "Taking account of the critically important public policy issues". Those issues which must be taken into account by Panels such as yours were described by the court in *Cohen* as:

"The need to protect the individual [service user] and the collective need to maintain confidence in the profession as well as declaring and upholding proper standards of conduct and behaviour which the public expect ... and that public interest includes amongst other things the protection of [service users] and maintenance of public confidence in the profession."

Thus, in determining whether fitness to practise is impaired, you must take into account a range of issues which in essence comprise two components:

1. The 'personal' component: That is to say any evidence touching upon the Registrant's current competence, behaviour, et cetera; and
2. The 'public' component: The need to protect service users, declare and uphold proper standards of behaviour and maintain public confidence in the profession.

As the court noted in *Cohen*, the sequential approach to considering allegations means that not every finding will automatically result in a Panel concluding that fitness to practise is impaired.

As the court observed:

"There must always be situations in which a Panel can properly conclude that the act ... was an isolated error on the part of the ... practitioner and that the chance of it being repeated in the future is so remote that his or her fitness to practise has not been impaired ... It must be highly relevant in determining if ... fitness to practise is impaired that ... first the conduct which led to the charge is easily remediable, second that it has been remedied, and third that it is highly unlikely to be repeated."

It is important therefore for Panels such as yours to recognise:

"... that the need to address the 'critically important public policy issues' identified in *Cohen* ... means that they cannot adopt a simplistic view and conclude that fitness to practise is not impaired simply on the basis that, since the allegation arose, the Registrant has corrected matters or 'learned his or her lesson'."

In addition:

"As indicated in *Brennan v HPC*, in cases where a Panel makes a finding of impairment or imposes a sanction solely on the basis of the 'public' components of an allegation, it must explain the reasons for that decision. It is insufficient simply to recite that, for example, it is necessary in order to maintain public confidence in the profession."

You may also be assisted by the formulation provided by Dame Janet Smith in her Fifth Report to the Shipman Inquiry which was cited with approval in one of the leading cases in this area in the case of *Grant* by Mrs Justice Cox. Dame Janet, in her formulation for the benefit of regulatory panels such as yours, expressed the test of current impairment in this way:

Whether by reason of the Registrant's conviction, whether he has in the past or whether he is liable in the future to act in such a way as to present an unwarranted risk of harm to vulnerable service users; whether he has in the past and / or whether he is liable in the future to breach a fundamental tenet of the profession of which he is a member; next, whether he has in the past and / or is liable in the future to bring the social care workforce into disrepute; and whether he has acted in the past and / or is liable in the future to act in a dishonest manner.

It would be my view, again it is of course a matter entirely for you and your colleagues, that all four of those limbs of the formulation at least are in play in this particular case.

Finally, whether those facts which you have found proved amount to the statutory ground of the allegation and constitute impairment is not a matter which needs to be proved, but it is rather a matter for your judgement and the judgement of your colleagues in determining and giving the appropriate weight to the personal and public components which I have described to you.

Sanction

At this, the third stage of the proceedings in relation to this Registrant, Paul Oliver John Greenwood, the mitigation and sanction stage, I am required to give you some brief advice in relation to those matters which you could properly take into account at this stage.

Similarly to the impairment stage of the proceedings, it is important to remember at the outset that at this stage of the proceedings you are required in collaboration with your colleagues to exercise your judgement and to decide, applying the principles of proportionality and fairness, and having the public interest at the forefront of your minds, as to the appropriate sanction to impose in the particular circumstances of this case. And the available sanctions were set out by you at the outset of this stage of the proceedings, and I don't intend to repeat those available sanctions unless of course you wish me to do so. Rather, it is to remind you and your colleagues that the purpose of the sanction is not to be punitive, although the courts recognise that the imposition of a sanction can have a punitive effect not only in relation to a Registrant, but also perhaps, where appropriate, on the Registrant's family, and also potentially on the Registrant's reputation and ability to earn a living. The purpose, however, as is set out in the applicable Guidance is that the purpose of the sanction is primarily to protect the public and also it operates in order to uphold the public interest. The public interest is set out for you in Paragraphs 2.3 and 2.4 of the Guidance document.

You must first of all begin your deliberations in this case by considering those factors which might be considered mitigating and those factors which might be considered aggravating on the question of the Registrant's conduct as found proved by you. A non-exhaustive list of those factors are set out for you in Paragraphs 3.2 and 3.3 of the Guidance document. When you have looked at and analysed those factors you should then move on to consider the appropriate sanction to apply. You should, as Mr Gilmore has reminded you, start off your deliberations by considering whether it would be appropriate to impose a Warning in this case and only where you are satisfied that such an outcome would not adequately protect the public should you move through the list of available sanctions in ascending order of severity. You should give reasons for considering whether a sanction is or is not appropriate having regard to the Guidance provided to you.

The attention of the Committee was also drawn by Mr Gilmore to examples of impairment relevant to the sanction of removal, that should only of course be considered if and when the Committee moves to discuss removal as a possible response to the facts proved, having discounted of course all of the other less severe sanctions that the Guidance explains.

There is also a relevant portion of the Guidance at Paragraph 5.15 which indicates that social care work relies on the existence of an intimate professional relationship in circumstances in which users and services have little choice but to be trusting. Users of services rely upon the profession's trustworthiness which they are entitled to assume because of professionals' training and registration. And that may have been opened to you by Mr Gilmore, I read it again in case it was not but it certainly could potentially, although it is a matter of course for you and your colleagues, to have a bearing upon your deliberation in this particular case having regard to the facts

found proved.

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 Stewart
Committee Manager

08 August 2018
Date