



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

SUSPENSION ORDER REVIEW HEARING

Name: Jackie Diane Houston

SCR No: 6023074

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **20 April 2020**, made the following decision about your registration with the Northern Ireland Social Care Council ('the Council'):

The Committee found that your fitness to practise remains impaired;

The Committee decided to revoke the Suspension Order and impose a Removal Order.

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Suspension Order review hearing was held remotely by way of video link. Neither the Council nor the Registrant joined the meeting. Both the Council and the Registrant provided written submissions to the Committee, which were considered on the day of the hearing.

Service

The Notice of Review Hearing was sent by Special Delivery post to the Registrant's registered address on 12 March 2020. The package was delivered and signed for on 13 March 2020. An email was issued to the Registrant on 03 April 2020, advising that due to the COVID-19 pandemic, the Suspension Order review hearing would now be held remotely, and the Registrant could provide written submissions or request to join the hearing by video / audio link. The Committee Clerk also telephoned the Registrant on 03 April 2020 and explained that the hearing would be held remotely due to the COVID-19 pandemic, and asked the Registrant if she would like to join the hearing by video link. The Registrant stated that she did not want to participate as she no longer needed registration as she is working in a different sector. The Registrant emailed the Committee Clerk on 03 April 2020 with her submission to the Committee.

The Committee reminded itself of the provisions of Rule 3 and Paragraph 11 (3) of Schedule 1 of the Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019 ('the Rules'), and is satisfied that the

Notice of Review Hearing has been served as it was sent by Special Delivery post to the Registrant's address as it appears on the Register. The Committee is therefore satisfied that service has been effected in accordance with the Rules. In addition, the Committee noted that the Registrant had responded to the Notice by way of her email dated, 03 April 2020.

Proceeding in Absence

The Committee noted that the Committee Clerk telephoned the Registrant on 03 April 2020, and that she was given the choice to join the hearing by way of video link or to provide the Committee with written submissions. The Registrant stated that she did not want to participate in the hearing and provided written submissions in an email dated 03 April 2020.

The Legal Adviser told the Committee that during these unprecedented times, the Council has decided to hold all hearings remotely, with registrants given the choice of joining a hearing by video link or providing written submissions to the Committee.

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. In considering the application, the Committee satisfied itself that all reasonable efforts had been made to notify the Registrant of the hearing. The Committee heard and accepted the advice of the Legal Adviser, who referred the Committee to the cases of R v Jones 2003 1 AC and Adeogba and Visvardis v GMC 2016. The Legal Adviser reminded the Committee that in exercising its discretion to proceed in the Registrant's absence, it must have regard to all of the circumstances with fairness to the Registrant being of prime consideration, although fairness to the Council and the public interest must also be taken into account. She reminded the Committee of the requirement to exercise its discretion to proceed with the utmost care and caution. She further advised the Committee to avoid reaching any improper conclusion about the Registrant opting to provide a written submission as opposed to joining the hearing for the purposes of making an oral submission.

The Committee noted that this is a mandatory review, that the Suspension Order will expire on 22 April 2020 and that the Registrant did not attend the hearing on 23 April 2018. The Committee also took into account that there is no suggestion from the Registrant that she seeks an adjournment or that she would be more likely to attend if the hearing was adjourned to another date. The Committee took into account the Registrant's comments to the Committee Clerk on 03 April 2020, when the Registrant was given the opportunity to participate in today's hearing, and her indication that she did not wish 'to add anything'. The Committee therefore determined that an adjournment would serve no useful purpose. The Committee has also taken into account public protection and the public interest in ensuring that the current Suspension Order is reviewed before it expires. The Committee, in all of the circumstances, is satisfied that it is appropriate to proceed with this hearing in the absence of the Registrant.

Background

Following a hearing on 23 April 2018, at which the Registrant was neither present nor represented, a Fitness to Practise Committee found the following allegations against her proved:

That, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), and whilst working as a domiciliary care worker:

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| 1. | On 24 May 2016, you stole household items to the value of £13 or thereabouts belonging to Iceland contrary to Section 1 of the Theft Act (Northern Ireland) 1969. On 19 May 2017, a fine of £100 was imposed. |
| 2. | On 04 October 2016, you stole various items to the value of £21 belonging to Dunnes, Flagship store, Bangor, contrary to Section 1 of the Theft Act (Northern Ireland) 1969. On 19 May 2017, a conditional discharge for 2 years was made. |
| 3. | And your actions as set out at 1 and 2 above were dishonest. |

And your actions as set out above at 1 show that your fitness to practise is impaired by reason of your conviction.

And your actions as set out above at 2 show that your fitness to practise is impaired by reason of your misconduct.

The Committee, in April 2018, considered that the Registrant's actions amounted to misconduct and, further, that she was currently impaired by reason of her convictions and misconduct. In its impairment decision, that Committee noted that the Registrant's actions had fallen far below the standards to be expected of a registered social care worker and were serious. That Committee concluded that the Registrant's misconduct was capable of remediation in certain circumstances, although also noted that dishonesty is always difficult to remediate. That Committee further noted that the Registrant had shown limited insight through her acceptance of her wrongdoing, but concluded that the Registrant's convictions showed a pattern of dishonest behaviour.

Current Fitness to Practise

This is the first review of a Suspension Order made against the Registrant. The Committee considered the written submissions from both the Council and the Registrant.

The Council submitted that the Registrant's fitness to practise remains impaired, and referred the Committee to the lack of engagement by the Registrant as to today's review hearing, and her failure to provide the Committee with any evidence that her previous misconduct would not be repeated. The Council submitted that there is, therefore, a continued lack of insight on the part of the Registrant, and that there is no evidence to show her willingness to take steps to remedy her misconduct. The Registrant had not responded to the request from the Council as regards the recommendations set out by the Committee when the Suspension Order was imposed. The Committee took into account the correspondence sent to the Registrant by the Council on 02 May 2018 and 12 February 2020, which set out very clearly the nature of the evidence required to enable full consideration of

whether the Registrant's fitness to practise remains impaired. The Registrant did not respond to either of these requests for further information.

The Committee took into account the email from the Registrant dated 03 April 2020, when she stated as follows 'I don't wish to add anything also Ive moved to a different field of worj (sic)'.

In reaching its decision, the Committee heard and accepted the legal advice from the Legal Adviser. The Committee was reminded that it was not required to go behind the previous decision in assessing facts, and that it was required to review any evidence provided since the hearing on 23 April 2018. The Committee was reminded that it is assessing current impairment and needed to take into account any evidence of remediation, insight and risk of repetition. The Committee was also reminded of the need to take account of the wider public interest, which includes upholding standards and maintaining confidence in the regulatory process.

The Committee first considered whether the Registrant's fitness to practise remains impaired. The Committee reminded itself that impaired fitness to practise describes those circumstances which call into question the suitability of a registrant to remain on the Register without restriction or to be registered at all. In considering the matter, the Committee carried out a comprehensive review of the Suspension Order in light of the submissions which it received and the hearing bundle provided for the review hearing. The Committee exercised its own judgement in reaching a decision.

In considering whether the Registrant's fitness to practise remains impaired, the Committee reminded itself of the requirements set out at Paragraph 33 of Schedule 2 of the Rules. In considering this, the Committee is satisfied as to the reasons for the alleged impairment of fitness to practise, as set out in the decision of the original Committee on 23 April 2018. The Committee noted the previous findings that the misconduct and convictions were serious and that the Registrant's failings related to theft on two occasions. In addition, the Committee noted that the Registrant failed to notify her employer or her regulator of her convictions. Taking into account the Standards of Conduct and Practice for Social Care Workers as set out in the previous decision, the Committee considered that the Registrant remains in breach of the same Standards.

The Committee then considered whether the impairment is capable of remediation, taking into account that dishonesty is difficult to remediate. However, there is no evidence before this Committee that the Registrant has taken any steps to remediate the impairment since the original Order was made approximately two years ago. The Registrant has not demonstrated any insight into her failings, nor has she presented any evidence of her willingness to take steps to remedy her misconduct, other than her email indicating that she is working in a different field of work.

Therefore, in view of the Registrant's continued lack of insight, lack of remediation and very limited engagement, the Committee could not be satisfied that there is no risk of repetition of the Registrant's misconduct in the future. The Committee took into account the public interest when deciding whether the Registrant's fitness to practise remains impaired. The Committee accepted the need for the Council to uphold proper professional standards and public confidence in the social care workforce. The Committee determined that public confidence would be

undermined if a finding of impairment was not made in circumstances where a Registrant had been suspended but failed to engage with the Council, demonstrate insight or take any steps to remediate during the course of her suspension, especially when given advice on two occasions as to what was required.

For these reasons, the Committee found that the Registrant's fitness to practise remains impaired.

Sanction

In reaching its decision on sanction, the Committee considered the submission from the Council and heard and accepted the advice of the Legal Adviser. She referred the Committee to the requirements set out at Paragraph 33 (8) of the Rules and reminded it that this Suspension Order expires on 22 April 2020. She referred the Committee to the Northern Ireland Social Care Council Indicative Sanctions Guidance, and reminded it that the purpose of sanction is not punitive and that regard must be had to the protection of the public, the protection of service users and maintaining confidence in the workforce and upholding proper standards of conduct and behaviour.

The Committee was aware of its powers as set out at Paragraph 33 (8) of Schedule 2 of the Rules. The Committee, in addition to the powers set out in this Paragraph, may allow the Suspension Order to run its course and expire on 23 April 2020. The Committee took into account the need to act proportionately and that the purpose of sanction is not punitive. Taking into account the findings of the previous Committee as regards the Registrant's serious misconduct and the risk of repetition identified above, the Committee does not consider it appropriate to allow this Order to expire.

The Committee noted the findings of the previous Committee on 23 April 2018 and, in particular, its recommendations that at any review hearing, the Registrant would have an opportunity to present evidence of insight and remediation. The Committee considered and took into account the mitigating and aggravating findings of the previous Committee. The Registrant has not availed of the time since the Suspension Order was put in place to provide evidence of insight and remediation, despite being requested to do so by the Council.

Conditions of Practice Order – the Committee first considered whether to impose a Conditions of Practice Order to commence on the expiry of the current Suspension Order on 22 April 2020. The Committee determined that it would not be appropriate to impose a Conditions of Practice Order in all of the circumstances. The Committee has no evidence to suggest that the Registrant is currently working in the social care sector, nor that she would cooperate with conditions of practice. The Registrant did not attend her initial hearing, and did not substantially engage in the hearing today. In addition, as referred to above, the Registrant has not provided any information or documentation as considered relevant by this Committee. Therefore, the Committee determined that no practicable or workable conditions could be formulated to adequately address the Registrant's failings. In addition, the Committee does not consider a Conditions of Practice Order sufficient to protect the public from the risk of repetition, nor would it meet the public interest in upholding proper professional standards and in maintaining public confidence in the Council.

Suspension Order – the Committee then went on to consider whether it would be appropriate to impose a further period of suspension. The Committee considered that the Registrant’s misconduct and convictions for theft were serious. The Committee noted that the Registrant’s misconduct took place outside the workplace. However, in view of the absence of any evidence concerning insight and remediation, the Committee considered that the Registrant’s dishonesty had the potential to cause risk of harm to vulnerable service users. The Registrant failed to engage with the previous Committee and subsequently with the Council, despite correspondence requesting her to do so. The previous Committee described its decision on sanction as being borderline between a Suspension Order and a Removal Order and, reflecting the seriousness of the Registrant’s misconduct, imposed a Suspension Order for the maximum period available to it of two years. During this period of suspension, the Registrant failed to engage with the recommendations and the advice made by the previous Committee and persisted in her lack of engagement. This Committee therefore regards this as being a further aggravating factor. In all of these circumstances, the Committee concluded that a further period of suspension would not resolve or remedy the Registrant’s misconduct.

Removal Order – after careful deliberation, the Committee determined to revoke the Suspension Order and impose a Removal Order in accordance with Paragraph 33 (8) (g) of Schedule 2 of the Rules. The Committee concluded that removal from the Register is the only appropriate and proportionate sanction. The Committee concluded that the Registrant’s convictions and serious misconduct, compounded by her persistent lack of insight and remediation, are fundamentally incompatible with being a registered social care worker. The Registrant’s convictions constituted a serious departure from the Standards of Conduct and Practice for Social Care Workers. As previously stated, there has been no evidence of remorse presented to this Committee and no evidence that the Registrant has remediated her misconduct. The Committee further noted the clear risk of repetition. Taking into account all of the evidence, the Committee is of the view that confidence in the social care profession would be undermined by allowing the Registrant to remain on the Register.

The Committee considered the potential devastating impact of a Removal Order on the Registrant. The Committee had evidence that the Registrant has been employed in a different field of work, but concluded that public safety and the public interest outweighed the impact of a Removal Order on the Registrant.

The Committee determined 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.

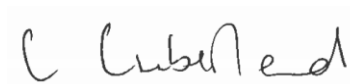
The effect of this decision is that your entry in the Register has been removed.

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 Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019, 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. You are prohibited from working in a social care role until a successful application for restoration onto the Register has been made to the Council.



Regulatory Committee Manager

21 April 2020

Date