



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

CONDITIONS OF PRACTICE ORDER REVIEW HEARING

Name: Alfred James Purcell

SCR No: 6032994

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its hearing on **19 November 2020**, made the following decision about your registration with the Northern Ireland Social Care Council:

The Committee found that your fitness to practise remains impaired;

The Committee decided to impose a further Conditions of Practice Order to commence upon expiry of the existing Order, for a specified period of one year.

The Conditions of Practice are:

1. You must notify the Social Care Council within 14 days of any social care appointment (whether paid or unpaid) you accept within the UK or elsewhere and provide the Social Care Council with contact details of your employer.
2. You must inform the Social Care Council of any professional investigation started against you and / or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.
3.
 - a. You must, within 14 days of accepting any post or employment requiring registration with the Social Care Council, or any course of study connected with social work or social care, provide the Social Care Council with the name / contact details of the organisation offering the post, employment or course of study.
 - b. You must, within 14 days of entering into any arrangements required by these conditions of practice, provide the Social Care Council with the name and contact details of the individual / organisation with whom you have entered into the arrangement.
4. Within six months of commencing employment in a social care setting, you must provide the Social Care Council with a full training record detailing all training undertaken.
5. If employed as a social care worker in an organisation that requires the use of physical intervention, you must not physically intervene unless you have successfully completed appropriate training and have

provided the Social Care Council with written evidence of same.

6. At any time you are employed or otherwise providing social care work, you must immediately inform the following parties that you are subject to a Conditions of Practice Order under the Social Care Council's fitness to practise procedures, and disclose the conditions listed at 1 to 5 above to them:

- Any organisation or person employing, contracting with, or using you to undertake social care;
- Any agency you are registered with or apply to be registered with (at the time of application);
- Any prospective employer (at the time of application);
- Any educational establishment at which you are undertaking a course of study connected with social work or social care, or any such establishment to which you apply to take such a course (at the time of application).

Background to Review

A Fitness to Practise Committee, at a hearing on 04 and 05 December 2018 at which the Registrant was neither present nor represented, found the following the following Allegation proved:

That, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), and whilst working as a support worker for Priory Adult Care at the Loughshore Unit, 646 Shore Road, Belfast:

1.	On 23 July 2017, you failed to follow trained techniques to de-escalate the behaviours of Resident M in line with his Behaviour Support Plan.
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And that by reason of the matters set out above, your fitness to practise is impaired because of your misconduct.

At that hearing, the Committee decided to make a Conditions of Practice Order for a specified period of two years. The current Order is due to expire on 03 December 2020. This Committee was convened to review the Order before its expiry. The review was conducted in accordance with Paragraph 33 of the Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019 ('the Rules').

With regard to impairment, the original Committee found as follows:

The Committee next considered whether as a result of the misconduct found proved, the Registrant's fitness to practise is impaired. The Committee kept at the forefront of its mind when reaching this decision the duty to protect the public, uphold proper standards of conduct and behaviour and maintain public confidence in the social care profession.

The Registrant was working with very vulnerable residents with complex needs. A detailed Behaviour Support Plan had been put in place to allow the needs of Resident M to be met. The Committee concluded that the physical interventions which were in breach of this Behaviour Support Plan did pose a risk of harm to Resident

M. The Committee determined that the Registrant's actions on that day did breach a fundamental tenet of the social care profession.

The Committee had no doubt that the Registrant's misconduct is capable of remediation. However, the Committee determined that it has not yet been remedied. The Registrant failed to follow the Behaviour Support Plan and there is a risk that he could act in the same way in the future. The Committee found that the Registrant had not demonstrated full insight. The Committee appreciated that the Registrant denied that the events occurred as described by Witness 1 or Witness 2. However, he has not demonstrated insight into the impact of his actions on Resident M or on his colleagues, or demonstrated any reflection on what the impact may have been if the Particulars of the Allegation were to be found proved. Until the misconduct has been remediated or full insight demonstrated, the Committee concluded that the Registrant's fitness to practise remains impaired.

The Committee considered the public interest and concluded that public confidence in the profession and NISCC as a regulator would be undermined if a finding of impairment were not made. In particular, the Committee noted the evidence of Witness 1 when she witnessed events at the smoke hut and said 'what is he trying to do to that poor boy', and considered her views to be reflective of any member of the public. On this basis, the Committee concluded that public confidence in the profession would be undermined if a finding of impairment were not made.

Therefore, the Committee determined that the Registrant's fitness to practise is currently impaired.

The original Committee, with regard to sanction, determined as follows:

The Committee proceeded to consider the appropriate sanction to apply in this case:

Warning - *the Committee considered a Warning but was not satisfied that a Warning was the appropriate sanction in this case. The Committee concluded that the Registrant's misconduct was of a serious nature and has not been remediated. The Committee determined that a risk of repetition remained and, when considered in conjunction with the Registrant's lack of insight, concluded that a Warning was not appropriate.*

Conditions of Practice Order - *the Committee next considered a Conditions of Practice Order. The Committee had already determined that the Registrant's misconduct could be remediated, and determined that Conditions of Practice would allow the Registrant the opportunity to remedy his misconduct. The Committee had written submissions from the Registrant which suggested that he was employed in retail and had no information on whether or not the Registrant would agree to any conditions imposed. However, the Committee took into consideration his written submissions, in which he stated that he was unable to attend the hearing as his employer had put a block on holidays throughout the period of December. The Committee noted that the Registrant was studying for a Masters, and concluded that if not currently in a social care role it was likely that he would want to return to the profession. The Committee has decided that there are workable, measurable and time bound conditions which are relevant and proportionate and address the Registrant's failings. These*

conditions could be placed on his registration and would prevent any risk of repetition at any time the Registrant is employed, or otherwise providing social care.

The Conditions of Practice which are appropriate in this case are:

1. You must notify NISCC within 14 days of any social care appointment (whether paid or unpaid) you accept within the UK or elsewhere and provide NISCC with contact details of your employer.
2. You must inform NISCC of any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.
3.
 - a) You must within 14 days of accepting any post or employment requiring registration with NISCC, or any course of study connected with social work or social care, provide NISCC with the name/contact details of the organisation offering the post, employment or course of study.
 - b) You must within 14 days of entering into any arrangements required by these conditions of practice provide NISCC with the name and contact details of the individual / organisation with whom you have entered into the arrangement.
4. At any time you are employed or otherwise providing social care work, you must not practise without having either an equal or senior staff member also being on duty during the period of the shift.
5. At any time you are employed or otherwise providing social care work:
 - (a) You must notify NISCC of the name of your mentor or supervisor within 14 days of commencing your employment;
 - (b) You must meet with your mentor or supervisor on a weekly basis for the initial period of six weeks to formulate a Personal Development Plan specifically designed to address the deficiencies in the de-escalation of challenging behaviours from service users;
 - (c) After the initial six week period, you must meet with your line manager, mentor, or supervisor at least every month to discuss the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan.
6. You must forward to NISCC a copy of your Personal Development Plan within six weeks of the date on which these conditions become effective or the date on which you take up an appointment, whichever is later.
7. Within 6 months of the condition coming into effect, you must submit a written reflective account, the content of which must be to the satisfaction of NISCC. Your reflective account should specifically address:
 - a. your reflection on the incident which occurred and the impact upon the service user;
 - b. your understanding of how your behaviour breached the Standards of Conduct and Practice;
 - c. any lessons which you have learnt;
 - d. your reflection on how the values and principles of social care relate to the role of the social care worker;
 - e. how the Standards of Conduct and Practice for Social Care Workers apply to the role of social care worker;

- f. *how the role of social care worker impacts on the service users you work with, their families and your colleagues.*
8. *At any time you are employed or otherwise providing social care work, you must send a report from your line manager, mentor or supervisor setting out the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan to NISCC eight weeks before any review or hearing.*
9. *At any time you are employed or otherwise providing social care work, you must allow NISCC to exchange as necessary information about the standard of your performance and your progress towards achieving the aims set out in your Personal Development Plan with your line manager, mentor or supervisor or any other person who will be involved in your training and supervision with any employer, prospective employer and at any educational establishment.*
10. *Within six months of returning to practice, you must attend and complete an accredited training course in relation to managing challenging behaviour and provide NISCC with written evidence of successful completion.*
11. *At any time you are employed or otherwise providing social care work, you must immediately inform the following parties that you are subject to a Conditions of Practice Order under NISCC's fitness to practise procedures and disclose the conditions listed at 1 to 10 above to them:*
- *Any organisation or person employing, contracting with, or using you to undertake social care;*
 - *Any agency you are registered with or apply to be registered with (at the time of application);*
 - *Any prospective employer (at the time of application);*
 - *Any educational establishment at which you are undertaking a course of study connected with social work or social care, or any such establishment to which you apply to take such a course (at the time of application).*

The Conditions of Practice Order is to last for a period of two years to allow the Registrant the opportunity to achieve the conditions and remedy his failings.

Council Submissions

At the review hearing Mr Gilmore, on behalf of the Council, set out the background to the referral and the determination of the original Committee. The Registrant had provided a reflective piece, dated 29 May 2019, and had further submitted, on 30 August 2020, a reflective document together with evidence that the Registrant was studying for a Master's Degree in Childhood and Youth. Mr Gilmore confirmed that those elements of the original conditions which required the Registrant to satisfy the Council and the Committee as to his insight had been complied with in the documentation submitted. However, Mr Gilmore drew the Committee's attention to the basis for the referral in the first place. It concerned the Registrant's use of physical force against a vulnerable service user in contravention of his training and which was contrary to the service user's support plan. Mr Gilmore

submitted that the Registrant had failed to demonstrate compliance with those conditions, which required the Registrant to work under supervision and provide evidence, in the form of a Personal Development Plan, to demonstrate that the Registrant had remedied deficiencies in the de-escalation of challenging behaviours displayed by service users. Mr Gilmore outlined to the Committee that the Registrant had been unable to secure employment in the two years or so since he was made the subject of the conditions. This fact was the reason for the Registrant's failure to demonstrate compliance with the conditions.

Mr Gilmore submitted that a substantive Order remained necessary in the public interest. He submitted further that a sustained period of employment in the social care setting, whilst being subject to conditions such as those presently in force, was required to protect the public.

Registrant's Evidence and Submissions

The Registrant gave evidence to the Committee. He confirmed that since the date on which he was made the subject of conditions, he was unable to secure work as a social care worker. When questioned by the Committee, the Registrant stated that he had applied to numerous agencies in the previous two years for paid employment and placement on a voluntary basis. The Registrant had been selected for interview on 15 occasions. As required by his conditions, the Registrant declared that he was the subject of a Conditions of Practice Order. The Registrant had been unsuccessful in his efforts to date. He was clear in his evidence that the reason for his failure to secure employment was because of the conditions which he had declared. The Registrant considered that the conditions were 'draconian', and that he had been rendered unemployable as a result of them. He acknowledged, both in his evidence and in his written submissions, that he had made mistakes in his previous position, which had resulted in his referral to the Council. He was undertaking work as lorry driver to provide for himself and his family financially. However, his real passion was for social care work, which he wanted to return to as soon as possible.

Mr Lungley, on behalf of the Registrant, set out a brief background to the Registrant's previous employment as a senior support worker. He had been employed for four months when he was promoted to a senior caring position. He worked with vulnerable service users with challenging and complex needs, whose behaviour could escalate quickly and unexpectedly. In the period during which the Registrant was the subject of conditions, he was holding down a job as a lorry driver and completing a Master's Degree. The degree – in Childhood and Youth - provided the Registrant with valuable insights in relation to dealing with children and young adults.

Mr Lungley submitted that the current conditions were not workable. He further submitted that they placed an onerous burden on the Registrant and any prospective employer. Mr Lungley stated that the public interest could be upheld by the current Order being allowed to expire, or extended for a short period, to enable the Registrant to secure employment.

Decision on Current Fitness to Practise

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 04 and 05 December 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 the issue of insight. Within the reflective piece, dated 29 May 2019, the Registrant stated: *'reflecting back I definitely could have handled the incident in a different way in terms of using the de-escalation techniques that I had been trained in. I fully understand that my conduct on the day of the incident fell way short that is expected from the NISCC, in relation to their standards of conduct, values and principles of a social care worker... I am truly sorry and remorseful that I caused distress to my ex colleagues, Resident M and his family...all I can say is that this will never happen again and I am truly sorry for what has happened...'* In his written document, dated 30 August 2020, the Registrant repeated his desire to return to social care work and stated that his academic studies had given him a better awareness of how his actions could impact work colleagues and service users in his care. The Committee considered that the Registrant's insight had developed significantly in the period of time following the substantive hearing in December 2018.

The Committee then considered the issue of whether the Registrant had remedied his misconduct. First, the Committee was satisfied that the misconduct was capable of remediation. The Registrant had demonstrated insight into what was required to ensure that there was no repeat of the misconduct. The problem for the Committee was, however, that the Registrant was not able to evidence remediation as he was not employed in the social care setting. As a result, although insightful, the possibility that there would be a repeat of the misconduct could not be discounted. The Committee therefore considered that it was necessary on public protection grounds to make a finding of current impairment.

The Committee was also satisfied that the public interest still played a large part in this case. For the same reasons as advanced by the original Committee, the Committee considered that it was necessary to make a finding of current impairment on public interest grounds.

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

Sanction

The Committee heard and accepted the Legal Adviser's advice in relation to sanction. The Committee was reminded that the purpose of a sanction was not to punish but to protect the public, and that any sanction had to be proportionate and fair. The Committee had regard to its powers under Paragraph 33 (8) of Schedule 2 of the

Rules. The Committee considered the Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees in reaching its decision.

The Committee decided, in light of the evidence presented at the review, to vary the conditions to which the Registrant was subject. It decided to impose a further Conditions of Practice Order, with the varied conditions, to commence upon the expiry of the existing Order. The Conditions were as follows:

1. You must notify the Social Care Council within 14 days of any social care appointment (whether paid or unpaid) you accept within the UK or elsewhere and provide the Social Care Council with contact details of your employer.
2. You must inform the Social Care Council of any professional investigation started against you and / or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.
3.
 - a. You must, within 14 days of accepting any post or employment requiring registration with the Social Care Council, or any course of study connected with social work or social care, provide the Social Care Council with the name / contact details of the organisation offering the post, employment or course of study.
 - b. You must, within 14 days of entering into any arrangements required by these conditions of practice, provide the Social Care Council with the name and contact details of the individual / organisation with whom you have entered into the arrangement.
4. Within six months of commencing employment in a social care setting, you must provide the Social Care Council with a full training record detailing all training undertaken.
5. If employed as a social care worker in an organisation that requires the use of physical intervention, you must not physically intervene unless you have successfully completed appropriate training and have provided the Social Care Council with written evidence of same.
6. At any time you are employed or otherwise providing social care work, you must immediately inform the following parties that you are subject to a Conditions of Practice Order under the Social Care Council's fitness to practise procedures, and disclose the conditions listed at 1 to 5 above to them:
 - Any organisation or person employing, contracting with, or using you to undertake social care;
 - Any agency you are registered with or apply to be registered with (at the time of application);
 - Any prospective employer (at the time of application);
 - Any educational establishment at which you are undertaking a course of study connected with social work or social care, or any such establishment to which you apply to take such a course (at the time of application).

The Conditions of Practice Order is to last for a period of 12 months to allow the Registrant the opportunity to comply with the conditions and remedy his failings.

In considering sanction, the Committee did look at the next sanction in order of gravity, namely suspension. The Committee concluded that suspension would be disproportionate in all of the circumstances of this case.

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 specified Conditions of Practice have been placed on your entry in the Register for a period of one year, to commence upon expiry of the existing Order (**05 December 2020 – 04 December 2021**).

Early Review

The Fitness to Practise Committee may, at your request, review the Conditions of Practice Order before the end of the period for which the Order has been imposed if there has been a material change of circumstances since the Order was imposed.

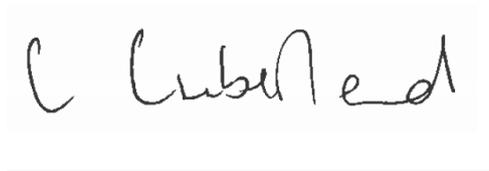
Additionally, the Council may request an early review of the Conditions of Practice Order if it receives information which suggests that the Order has not been complied with.

The Committee may, after early review of a Conditions of Practice Order, vary or revoke the terms of the existing Order, or replace the existing Order with a Suspension Order.

Review at Conclusion of Sanction

A review of your fitness to practise will be undertaken towards the end of the period for which the Order has been imposed. The Council will write to you no later than 14 weeks before the expiry of the Order to request evidence to determine compliance with the imposed conditions of practice.

Following the Council's review, the matter may be referred for review by the Fitness to Practise Committee. If the Committee reviews the Order and it is satisfied that your fitness to practise remains impaired, it may impose a further Order to commence upon expiry of the existing Order, or it may impose a Suspension Order to commence upon expiry of the existing Order, or it may vary the terms of the existing Order, or it may revoke the existing Order and impose a Removal Order.



Regulatory Committee Manager

21 November 2020

Date