

Northern Ireland

Social

Care

Council

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

REDACTED

Name: Anne Pauline Bernadette Donnelly

SCR No: 1099422

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **20 August 2021**, 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 revoke the Suspension Order and impose a Removal Order.

Preliminary Issues

The Suspension Order review hearing was held remotely by way of video link. The Registrant was neither present nor represented. The Council was represented by Mr Wilson, Solicitor, Tughans. The application was referred to the Fitness to Practise Committee in accordance with Schedule 2 Paragraph 33 (3) (c) of the NISCC Fitness to Practise (Amendment) Rules 2019 ('the Rules').

Procedure

The review hearing was held under the health procedure.

Service

Mr Wilson told the Committee that a Notice of Review Hearing and hearing bundle were emailed to the Registrant's registered email address on 09 July 2021, and that an electronic delivery receipt was received on the same date. In a phone call with the Fitness to Practise Officer on 21 July 2021, the Registrant confirmed that she would not be attending the Suspension Order review hearing. The Registrant stated during the phone call with the Fitness to Practise Officer on 21 July 2021 that she could not find the email with the Notice of Review hearing and hearing bundle. The documents were posted by Special Delivery post on 22 July 2021 to the Registrant's registered address. The documents were delivered and signed for by the Registrant on 23 July 2021.

The Legal Adviser reminded the Committee of the provisions of Rule 3 and Paragraph 33 (5) of Schedule 2 of the Rules, and was satisfied that the Notice of Review Hearing had been served as it was sent by email to the Registrant's registered email address and a delivery receipt was received. In addition, to assist the Registrant, copies of the Notice of Review Hearing and the hearing bundle were also sent to her by post. The Committee was therefore satisfied that service had been effected in accordance with the Rules.

Proceeding in Absence

The Committee noted the telephone call between the Fitness to Practise Officer and the Registrant on 21 July 2021, in which the Registrant stated that she did not wish to join the hearing.

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 not joining the remote hearing.

The Committee noted that this is the second mandatory review of a Suspension Order, which is due to expire on 23 August 2021. The Registrant did not attend the fitness to practise hearing on 24 August 2017 or the first Suspension Order review hearing on 22 August 2019. The Committee took into account that there was no suggestion from the Registrant that she wanted an adjournment of today's review hearing, 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 Council on 15 June 2021 and on 21 July 2021, when the Registrant indicated that she would not be attending the hearing. The Committee therefore determined that nothing would be gained by adjourning the case. The Committee determined that the Registrant was aware of these proceedings and had voluntarily absented herself from today's proceedings. The Committee also considered the issues of public protection and the public interest in ensuring that the current Suspension Order was reviewed before it expires. Accordingly, the Committee, in all of the circumstances, was satisfied that it was appropriate to proceed with this hearing without the direct participation of the Registrant.

Background

Mr Wilson told the Committee that this is the second review of a Suspension Order imposed on 24 August 2017. The current Order is due to expire on 23 August 2021. He referred the Committee to the findings of the fitness to practise hearing on 24 August 2017, where the Registrant was neither present nor represented. He stated that

the Fitness to Practise Committee, on this date, found the following Particulars of the Allegation proved by admission:

1. On 07 September 2015, you attended work under the influence of alcohol.
2. [REDACTED]

He referred to the Committee to the Agreed Statement of Facts, signed by the Registrant, which stated as follows:

'The registrant was employed as a Team Leader of the Gateway Team at Belfast and Lisburn Women's Aid between 6 June 2012 and 15 December 2015.

Belfast and Lisburn Women's Aid is a charity which provides support and emergency accommodation to women and children affected by domestic violence.

The Gateway Team in Belfast and Lisburn Women's Aid are responsible for dealing with new referrals into the service. As a Team Leader the registrant had responsibility for supervising support workers who handled cases concerning women and children affected by domestic violence. The registrant also had other responsibilities including seeking funding for the work of the charity from various sources.

On 7 September 2015 the registrant attended work under the influence of alcohol. The registrant was confronted by Patricia Lyness, Chief Executive of Belfast and Lisburn Women's Aid. The registrant went with Patricia Lyness to Patricia Lyness' office. Whilst there, Patricia Lyness indicated to the registrant that she believed the registrant was under the influence of alcohol and unfit to work. The registrant initially denied being under the influence of alcohol but subsequently admitted that she was. The registrant apologised to Patricia Lyness for having attended work under the influence of alcohol.

Patricia Lyness left the registrant in her office while she went to the registrant's workstation to seek the registrant's phone, which the registrant had misplaced. After Patricia Lyness had left the office the registrant left the building and drove away in her car.

The registrant parked her car a short distance away from Belfast and Lisburn Women's Aid and was subsequently discovered asleep in her car by some colleagues. Patricia Lyness came to meet the Registrant and made arrangements to take her to be collected by her husband. The registrant again apologised to Patricia Lyness for having attended work under the influence of alcohol.

On 5 May 2017 the Registrant attended a medical examination arranged by NISCC [REDACTED]. [REDACTED] and opined that the Registrant is not currently fit to practise. The Registrant accepts and agrees with the contents of [REDACTED] report dated 10 May 2017, and in particular accepts that [REDACTED] and that she is not currently fit to practise.

[REDACTED]

Mr Wilson further noted that the original Committee determined the following with regard to impairment:

'The Committee heard submissions from Mr Wilson. Mr Wilson advised the Committee that the Registrant does admit that her fitness to practise is currently impaired and the Council's position is that her fitness to practise is currently impaired because of her health.

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

The Committee was in no doubt that when the Registrant attended work on 07 September 2015 under the influence of alcohol her fitness to practise was impaired. The Committee went on to consider whether her fitness to practise is currently impaired by reason of her health. The Committee noted the admissions made by the Registrant in her letter to the Council dated 01 July 2017, where she stated that [REDACTED]. [REDACTED]. The Committee also noted that in the agreed Statement of Facts, the Registrant accepts [REDACTED] and that she is currently not fit to practise.

The Committee next considered [REDACTED]. The Committee accepted [REDACTED], which caused or substantially contributed to the alleged misconduct. The Committee noted the view of [REDACTED]. The Committee accepted the finding [REDACTED] that the Registrant is not currently fit to practise [REDACTED].

[REDACTED]

The Committee finds that the Registrant is in breach of the following Standards of Conduct for Social Workers:

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

2.6 *Being reliable and dependable.*

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

5.7 *Put yourself or other people at unnecessary risk;*

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

The Committee considered that the Registrant's actions in attending work whilst under the influence of alcohol brought the social care profession into disrepute. The Committee determined that public confidence in the social work profession would be undermined if a finding of impaired fitness to practise was not made.

Accordingly, the Committee determined that the Registrant's fitness to practise is currently impaired by reason of her health.'

Mr Wilson noted that the original Committee determined the following with regard to sanction:

'In reaching the decision on sanction, the Committee had regard to all of the evidence in the case, together with the submissions from Mr Wilson on behalf of the Council. The Committee heard and accepted the advice of the Legal Adviser. The Committee took into account that any sanction must be appropriate and proportionate and

although not intended to be punitive, its effect may have such consequences. The Committee has had regard to the Council's Indicative Sanctions Guidance.

The Committee first considered the mitigating and aggravating factors in the case. The Committee determined that the mitigating factors were:

- The Registrant has fully cooperated with the NISCC investigation;
- She had made an early admission of the facts alleged;
- She has displayed some insight [REDACTED];
- The Registrant has apologised and expressed regret;
- She has the benefit of a previous good history and previous good character;
- The Committee received evidence that she has [REDACTED];
- The Committee noted evidence in the papers of [REDACTED]; and
- There was no evidence that her behaviour caused harm to service users.

The Committee next considered the aggravating factors and determined that they are:

- The Registrant attended work under the influence of alcohol; and
- Her actions posed a potential risk both to service users and the public generally.

The Committee then went on to consider the appropriate sanction. In determining which sanction to impose, the Committee took into account the following:

- a) the seriousness of the Particulars of the Allegation;
- b) the protection of the public;
- c) the public interest in maintaining confidence in social work services; and
- d) the issue of proportionality.

Taking all of the above into account, and having balanced the aggravating and mitigating factors, the Committee went on to consider which sanction to apply in this case.

Warning – the Committee considered the issue of a Warning. The Committee did not consider a Warning to be appropriate as it would allow the Registrant to work unrestricted as a social worker. A Warning would not provide adequate public protection.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Committee noted Paragraph 4.13 of the NISCC Indicative Sanctions Guidance, which states conditions may be appropriate in cases involving particular areas of a Registrant's performance, for instance, following a single incident or where there is evidence of shortcomings in a specific area or areas of the Registrant's work. This is not such a case as [REDACTED]. Although the Registrant has cooperated with the NISCC investigation, the Registrant was not present today and the Committee found it difficult in her absence to formulate conditions that were both

achievable and accepted. The Committee is aware that the Registrant accepts that she is not currently fit to practise [REDACTED]. In these circumstances, the Committee was unable to formulate workable conditions which [REDACTED] whilst protecting service users from the risk of harm.

Suspension – the Committee determined that a Suspension Order would be an appropriate and proportionate sanction in this case. Suspension gives a clear message to the public and to the social care profession that attending work under the influence of alcohol is not appropriate conduct for a social worker. The Committee considered that the Registrant's actions in September 2015 were serious, but took into account that she has acknowledged her failings and [REDACTED]. The Registrant has demonstrated some insight and it is hoped that [REDACTED] and be fit to return to practise. The Committee carefully considered the period of time and determined to make a Suspension Order for two years. The Committee determined that [REDACTED] and the time period of two years is not intended to be punitive but [REDACTED]. In reaching this decision, the Committee took into account [REDACTED].

The Committee commends the Registrant on [REDACTED] and would like to ensure that the Registrant is aware that she has the ability to seek an early review of her suspension if [REDACTED] she is fit to return to practise.'

Mr Wilson referred the Committee to the findings of the Suspension Order review hearing on 22 August 2019. At this hearing, it was noted that:

'The Committee noted that [REDACTED]. However, the Committee has not received any evidence as to remediation or the risk of repetition. In light of the evidence provided, the Committee concludes that the Registrant's fitness to practise remains impaired.

Mr Wilson further referred the Committee to the sanction findings on 22 August 2019, which stated as follows:

Conditions of Practice Order – the Committee considered revoking the Suspension Order and replacing it with a Conditions of Practice Order. The Committee has taken into account that the Registrant accepts that she is currently not fit to practise [REDACTED]. The Committee is therefore unable to formulate workable conditions that would enable the Registrant to [REDACTED] whilst protecting service users from the risk of harm.

Suspension – the Committee determined that a Suspension Order remains the appropriate and proportionate sanction in this case. The Registrant has demonstrated some insight and it is hoped that in time she will be fit to return to practice. The Committee carefully considered the period of time and determined to make a further Suspension Order for two years. The Committee determined that it may take time for the Registrant to be in a position to return to practice and the time period of two years is not intended to be punitive. In reaching this decision, the Committee took into account the history of her engagement and willingness to achieve remediation, and concluded that it may [REDACTED].

The Committee acknowledges the Registrant's engagement to date, and would like to ensure that the Registrant is aware that she has the ability to seek an early review of her suspension if [REDACTED] she feels that she is ready to consider a return to practice.

Removal – removal was considered by the Committee to be a disproportionate sanction at this time’.

Mr Wilson addressed the Committee as regards the Registrant’s current fitness to practise. In particular, he referred the Committee to the various communications between the Council and the Registrant in anticipation of today’s review hearing. He noted that the Council specifically advised the Registrant as regards the information required for the purposes of today’s review hearing. In telephone conversations between the Registrant and the Council on 15 June 2021 and 21 July 2021, the Registrant indicated that she would not be attending the review hearing and [REDACTED]. Mr Wilson said that the Registrant further confirmed that she was not fit to return to work and did not have any medical or other evidence to provide to the Committee. In the circumstances, Mr Wilson submitted that there was no evidence of any remediation by the Registrant and that her fitness to practise, therefore, remained impaired.

Decision on Current Fitness to Practise

In reaching its decision, the Committee heard and accepted the legal advice. 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 initial fitness to practise hearing on 24 August 2017 and the Suspension Order review hearing on 22 August 2019. The Committee was reminded that it was 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 this matter, the Committee carried out a comprehensive review of the Suspension Order, as further extended, in light of the submissions from the Council, the information in the hearing bundle and position of the Registrant as recorded in her telephone conversations with the Council. The Committee exercised its own independent 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.

Unfortunately, the Committee today has not received any evidence from the Registrant on remediation [REDACTED]. The Committee noted the previous suggestions that the Registrant had [REDACTED]. However, the Committee had no information before it today in relation to the current position of [REDACTED] or improvement. The Registrant has been clear in her discussions with the Council that she is not currently fit to practise and has not provided any evidence in relation to [REDACTED].

The Committee determined that without any evidence as regards [REDACTED], the risks of the Registrant repeating the behaviour as occurred in September 2015 remain. The Committee took into account the Standards

of Conduct and Practice for Social Workers, as set out in the previous decision, and determined that the Registrant remains in breach of the same Standards. In light of the lack of evidence provided and the risk of repetition identified, the Committee concluded that the Registrant's fitness to practise remains impaired. The Committee considered the public interest in this matter, and determined that a finding of impairment was also required to meet the need to uphold proper professional standards and public confidence in the social work profession.

Sanction

Mr Wilson addressed the Committee on the issue of sanction. He noted that the Registrant, after the hearing on 24 August 2017, had a period of two years in which to demonstrate remediation. He noted that the Registrant was granted a further two years, by way of suspension, to provide information to the Council as regards remediation [REDACTED]. He noted that for today's review hearing, the Committee had no information to consider in relation to [REDACTED]. He submitted that the imposition of conditions of practice would not be appropriate in all of the circumstances. He asked the Committee to consider whether another period of suspension would be in the Registrant's interests, and questioned what would be gained by such an Order. He suggested that in the event of a removal from the Register, the Registrant could apply for restoration to the Register after a period of five years, if she wished to do so.

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

The Committee considered the mitigating and aggravating factors. The Committee noted the Registrant's previous engagement with the Council, and her limited engagement with the Council up to today's review hearing. Whilst the Registrant showed insight [REDACTED], she did not provide the Committee with up to date evidence in this regard. The Registrant has been over four years out of practice as a social worker and the Committee, therefore, could not identify any decrease in the risk identified by previous Committees.

The Committee considered whether it was fair and appropriate to allow the Suspension Order to expire. The Registrant's impairment of fitness to practise was not at the lower end of the spectrum, nor were the circumstances such that the Committee would be confident that allowing the Order to expire would provide adequate public protection. Therefore, taking no action and allowing the Suspension Order to expire would not be appropriate or proportionate in all of the circumstances.

Conditions of Practice Order – the Committee next considered revoking the Suspension Order and replacing it with a Conditions of Practice Order. The Committee took into account that the Registrant accepted she is currently not fit to practise [REDACTED]. The Committee further noted that the Registrant has not practised as a social worker for a period of over four years. The Committee is therefore unable to formulate workable conditions that would enable the Registrant to [REDACTED] whilst protecting service users from the risk of harm.

Suspension Order - the Committee then went on to consider whether it would be appropriate to impose a further period of suspension. The Registrant has now been suspended for approximately four years. Despite an initial engagement with the Council, as referred to and detailed during the fitness to practise hearing on 24 August 2017, the Registrant has not provided the Council with up to date information in relation to [REDACTED]. The Registrant indicated that she did not wish to attend the review hearing today, and advised in telephone conversations that [REDACTED], does not have any evidence for the Committee and was unfit to return to work. The Committee concluded that the period of suspension for approximately four years had provided the Registrant with an opportunity to [REDACTED]. However, there was no evidence that the Registrant had availed of this opportunity. The Registrant clearly stated that [REDACTED] and was unfit to return to practise as a social worker. In all of these circumstances, the Committee concluded that there was nothing to be gained by a further period of suspension.

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 Registrant's [REDACTED] behaviour resulted in a serious departure from the Standards of Conduct and Practice for Social Workers. The Committee further noted the ongoing risk to service users. If the Registrant was allowed to work as a social worker without any evidence of remediation of [REDACTED], the risk of her repeating the behaviour remained. The Committee concluded that removal from the Register was the only appropriate and proportionate sanction. The Committee concluded that [REDACTED], along with the lack of evidence of remediation and the allied risk of repetition, is fundamentally incompatible with being currently registered as a social worker. The Committee also considered the public interest, and concluded that confidence in the social work profession would be undermined by allowing the Registrant to remain on the Register. The Committee also concluded that it was in the interests of the Registrant to finalise the proceedings, noting the Council's submission as regards the restoration process that would be available to the Registrant.

The Committee considered the potential devastating impact of a Removal Order on the Registrant. The Committee 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.

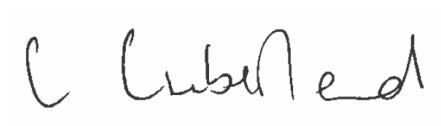
You have the right to appeal this decision to the Care Tribunal. Any appeal must be lodged in writing within 28 days from the date of this Notice of Decision.

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.

It is compulsory for all qualified social workers to be registered with the Northern Ireland Social Care Council in order to work. If you practise as a qualified social worker, you will be guilty of an offence pursuant to Article 8 of the Health and Personal Social Services Act (Northern Ireland) 2001. Article 8 states that if a person who is not registered as a social worker in any relevant Register takes or uses the title of social worker or any description implying that s/he is registered as a social worker, or in any way holds him/herself out as registered, s/he is guilty of an offence.

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. You are prohibited from working in a social work role until a successful application for restoration onto the Register has been made to the Council.



Regulatory Committee Manager

26 August 2021

Date