

**Notice of Decision**

<b>Registrant</b>	<b>Mark Calvin Fenton</b>
<b>Registration number</b>	<b>6019645</b>
<b>Part of Register</b>	<b>2</b>
<b>Sanction</b>	<b>Consensual Warning for 2 years</b>
<b>Date of Effect</b>	<b>10 September 2019</b>

This is a notice of decision of the Northern Ireland Social Care Council (the Council).

**Decision**

The Council has decided:

1. that there is evidence that your Fitness to Practise is impaired by reason of 3 criminal convictions received from the PSNI, as defined in Part 1, Rule 4 of the NISCC Fitness to Practise (Amendment) Rules 2019.
2. to issue a warning and direct that a record of the warning should be placed on your entry in the Register for a period of 2 years.

**Conviction in the United Kingdom for 3 criminal offences**

1. **Charge 1: Defendant on 30th day of December 2018, used disorderly behaviour in a public place, namely Tesco Express, Ballymoney Road, contrary to Article 18(1) (a) of the Public order (Northern Ireland) Order 1987**
2. **Charge 2: Defendant on 30th day of December 2018 without lawful excuse damaged cereal boxes belonging to Tesco Express intending to damage such property or being reckless as to whether such property would be damaged contrary to Article 3(1) of the Criminal Damage (Northern Ireland) Order 1977**
3. **Charge 3: Defendant on the 30th day of December 2018 assaulted IP thereby occasioning him actual bodily harm, contrary to Section 47 of the Offence Against the Person Act 1861.**

**Reasons**

The reasons that this behaviour is considered to constitute impaired fitness to practise are:

- Your behaviour has fallen below the standard expected of a person registered with the Northern Ireland Social Care Council

- The public has the right to expect their social care workers, in whom it places trust and confidence, to uphold the law, to not engage in offending behaviour not otherwise behave in a way in work, or outside work which would call into question their suitability to work in social care services.

## **NISCC Standards of Conduct and Practice for Social Care Workers**

The Standards of Conduct and Practice for Social Care Workers that your behaviour has breached, are as follows:

### **Standard 5: As a social care worker, you must uphold public trust and confidence in social care 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.

### **Sanction**

Having regard to the document '*Consensual Disposal Indicative Sanctions*' the Council decided that the appropriate sanction was the imposition of a warning on your registration for a period of 2 years.

### **Reasons for the Sanction**

When reaching its decision the Council considered the following factors:

#### **Aggravating factors**

- You received a total of 3 separate criminal convictions as a result of your actions on 30 December 2018.
- A risk was posed to the public and the nature of your assault suggests recklessness. The nature of the assault carried out by you caused Actual Bodily Harm to a security guard in a retail store.
- A previous Fixed Penalty was received by you for Disorderly Behaviour on 18 March 2013 which demonstrates a pattern of behaviour.
- Your behaviour constituted a serious disregard for The Standards of Conduct and Practice for Social Care Workers.

#### **Mitigating factors**

- Your offence did not involve work or service users as the incident occurred outside of the workplace and did not impact on any service users
- You have positively engaged with NISCC via your self-declaration of the offences, by telephone and email (in compliance with Standard 6.6), and you have cooperated fully with the NISCC investigation. (In compliance with Standard 6.12)

- You have provided a detailed, reflective account, demonstrating insight and remorse into the incident, commenting that you have been saddened and stressed as a result of the outcome of your actions.
- You have accepted full responsibility for your actions and apologised for these in a timely manner.
- You have communicated with your employer (in compliance with Standard 6.6) who has advised NISCC that they have no concerns in regard to your ability to complete your work duties, and it has been confirmed that you remain in your position as a Community Access Support Worker.
- You have informed NISCC that convictions arose during a time of a very difficult personal situation you were experiencing.
- You have a previous good work history and there has been no repetition of the behaviour since the incident.

### Consent

Having been advised of the consequences, and having been recommended to take independent advice, you consented to the imposition of a warning on 5 September 2019. A record of the warning has been placed on your entry in the Register for a period of 2 years and does not affect your ability to practise.

### Date of Effect

This warning comes into effect on 10 September 2019.

Helen Mender

Director of Regulation and Standards

10.9.2019

Date

