

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

Name: Samantha Janet Crampsie

SCR No: 2008820

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at a hearing on **04 June 2021**, 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 a conviction in the United Kingdom for a criminal offence;

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

Particulars of the Allegation:

That on the 08 February 2021, whilst being registered as a social care worker, under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you were convicted of the following offences at the District Judge's Court, and these offences occurred whilst you were employed as a Care Assistant by the Northern Health and Social Care Trust:

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| 1. | Defendant on 26 th day of September 2018 dishonestly made a false representation, namely, that you were entitled to use the Mastercard Debit card of (Service User A) with the intention, by making the representation, to make a gain for yourself or another or to cause loss to (Service User A) or to expose (Service User A) to a risk of loss, in breach of Section 2 of the Fraud Act 2006, contrary to Section 1 of the Fraud Act 2006. |
| 2. | Defendant on 31 st day of October 2018 dishonestly made a false representation, namely, that you were entitled to use the Mastercard Debit card of (Service User A) with the intention, by making the representation, to make a gain for yourself or another or to cause loss to (Service User A) or to expose (Service User A) to a risk of loss, in breach of Section 2 of the Fraud Act 2006, contrary to Section 1 of the Fraud Act 2006. |
| 3. | Defendant on 8 th day of November 2018 attempted dishonestly to make a false representation, namely, |

that you were entitled to use the Mastercard debit card of (Service User A) with the intention, by making the representation, to make a gain for yourself or another or to cause loss to (Service User A) or to expose (Service User A) to a risk of loss, in breach of Section 2 of the Fraud Act 2006, contrary to Article 3 (1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 and Section 1 of the Fraud Act 2006.

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

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Registrant was not in attendance, and the Council was represented by Mr Peter Carson, Solicitor, Directorate of Legal Services.

Declarations of Interest

The Chair of the Committee advised that all Committee Members have confirmed that they do not have any conflict of interest with this case.

Service

Mr Carson told the Committee that the Notice of Hearing and hearing bundle were emailed to the Registrant's registered email address on 26 April 2021. A delivery receipt was received on the same day. The Committee Clerk attempted to call the Registrant on 26 April 2021. However, the registered telephone number for the Registrant is no longer valid. An amended bundle was emailed to the Registrant on 01 June 2021, and a delivery receipt was received on the same date. The Registrant has not made any contact with the Council to date.

The Committee received legal advice from the Legal Adviser, and she referred the Committee to the requirements as set out in the Northern Ireland Social Care Council's ('the Council') Fitness to Practise (Amendment) Rules 2019 ('the Rules') and, in particular, Rule 3 which states that proof of service shall be treated as being effected on the day after it was properly sent. The Committee took into account that the Notice of Hearing provided details of the date and time of the hearing, and that it was to be held virtually. In addition, it contained information about the Registrant's right to attend, be represented and call evidence, as well as the power to proceed in her absence.

The Committee, in all of the circumstances of the case, is satisfied that the Notice of Hearing has been served in accordance with Rule 3 of the Rules, and the requirements of Paragraph 5 of Schedule 2 of the Rules.

Proceeding in the Absence of the Registrant

Mr Carson made an application to proceed in the absence of the Registrant, under Paragraph 15 of Schedule 2 of the Rules, and submitted that the Committee should hear and determine the case in her absence. He invited the Committee to conclude that the Registrant's absence and non-engagement with the Council was a voluntary waiver of her right to attend. He further suggested that it was in the public interest for the case to proceed, as this would ensure a fair and expedient disposal of 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 sought to satisfy itself that all reasonable efforts had been made to notify the Registrant of the hearing, and accepted the advice of the Legal Adviser. She referred the Committee to the cases of R v Jones 2003 1 AC, Adeogba and Visvardis v GMC 2016. She 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 to avoid reaching any improper conclusion about the Registrant's absence, and not to accept it as an admission in any way.

The Committee reminded itself that fairness to the Registrant should be a prime consideration. The Committee bore in mind the public interest in the expeditious disposal of the hearing. The Committee took into consideration that the email sending the Notice of Hearing contained details of the remote hearing, so even if the Registrant did not open and read the attachments served on her she had notice that the hearing was taking place. The Committee, in all of the circumstances, considered that the Registrant had voluntarily absented herself from today's hearing, and she had not sought an adjournment or instructed anyone to represent her. There was no reason for the Committee to think that she was any more likely to attend on another date if the matter was adjourned. The Committee accepted that the Registrant would be disadvantaged by not attending the hearing and presenting her account of events to the Committee but concluded that, in all of the circumstances, her interests were outweighed by the interests of the Council and the wider public interest in the matter proceeding.

Therefore, after careful consideration of all of the issues, the Committee decided to exercise its discretion to proceed in the absence of the Registrant, striking a careful balance between fairness to the Registrant and the wider public interest. However, the Committee reminded itself that it must avoid reaching any improper conclusion about the Registrant's absence.

Application to Admit Hearing Bundle

The Committee accepted the bundle into evidence, and marked it as Exhibit 1.

Background

The Registrant was employed at the Armour Complex in Ballymoney, providing care to vulnerable, elderly service users in the community, commencing in this post on 22 March 2010. The allegations received against the

Registrant were the subject of a safeguarding investigation, and at that time she was redeployed by her employer to an administrative role that had no contact with service users. The Registrant's employment was terminated on 05 February 2019 due to unsustainable absence from work. On 03 September 2019, the Registrant was interviewed by the PSNI in respect of allegations that she had tried to use a service user's credit card to pay debt owed by her to the Housing Executive. On 09 March 2020, the Registrant pleaded guilty to two offences under the Fraud Act 2006 of dishonestly making a false representation, namely that she was entitled to use the Mastercard debit card of Service User A and one offence of dishonestly attempting to use the Mastercard debit card of Service User A. She received a Community Service Order to perform 200 hours unpaid work on each offence, to run concurrently.

Evidence

Mr Carson referred the Committee to the documentation in the hearing bundle and, in particular, to the PSNI Case Summary which provided a more detailed background to the matter. The Committee heard that Service User A's daughter had contacted the police to report that money had been taken from her mother's bank account on two separate occasions. The amount of £67 was taken on 26 September 2018 and £150 on 31 October 2018. Mr Carson told the Committee that the payment of £150 was made to a Tenancy Account with the Housing Executive, and that the Registrant was the tenant of the relevant address. The Committee heard that the Registrant was in arrears with the Housing Executive. When the Registrant attended with the PSNI voluntarily for interview, she made full admissions to using the card to make a payment of £150 on 31 October 2018, and attempting to make a payment of £100 on 09 November 2018. She admitted to having taken a photo of the card and using this to make the payments. In relation to the payment of £67, the Registrant answered 'no comment'.

Mr Carson invited the Committee to consider the Certificate of Conviction. He reminded the Committee of the provisions contained in Paragraph 12 (5) of Schedule 2 of the Rules. He submitted that the Certificate of Conviction was conclusive proof of the convictions and the facts underlying it.

Findings of Fact

The Committee took into account the submissions made on behalf of the Council, the Certificate of Conviction and the legal advice from the Legal Adviser. The Legal Adviser reminded the Committee that under Paragraph 12 (5) Schedule 2 of the Rules, a Certificate of Conviction issued in any UK Criminal Court '*shall be conclusive proof of the facts or conviction so found*'. She advised the Committee that a Registrant could challenge a Certificate of Conviction if it did not refer to the Registrant, or where the conviction had been challenged successfully on appeal. She informed the Committee that the Certificate of Conviction in this case was issued before a competent Court of jurisdiction and, in the absence of any other evidence, the Committee was entitled to rely on the Certificate of Conviction to establish conclusively that the Registrant was convicted of the offence as set out. She also advised the Committee that the Certificate of Conviction could also be relied upon to establish the facts underlying the convictions.

The Committee reminded itself that the burden is on the Council to prove the facts as set out in the Particulars of the Allegation, and that to find the facts proved the Committee must be satisfied on the balance of probabilities. This means that for any fact to be found proved, the Committee must be satisfied that it is more likely than not to have occurred.

The Committee took into account the submissions from Mr Carson on behalf of the Council, and had careful regard to all of the documentary evidence submitted. The Committee noted the facts contained in the Certificate of Conviction. The Committee concluded that the Certificate of Conviction was conclusive proof of the convictions and the underlying facts. The Committee, therefore found the facts proved.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise is impaired. The Committee heard submissions from Mr Carson.

Mr Carson submitted that the Registrant's convictions called into question her ability to work in social care services, and to remain on the Register without restriction, or to be registered at all. Arising out of the Registrant's criminal convictions, he referred the Committee to breaches of the Standards of Conduct and Practice for Social Care Workers as follows: 2, 2.1 and 2.11; 5, 5.1, 5.2 and 5.8. He submitted that there is a basic need for social care workers to act honestly, and that the Registrant's serious criminal convictions (two for fraud and one for attempted fraud) fell far below the minimum standards expected of a registered social care worker, calling into question her right to practise without restriction or to be registered at all. He said that the Registrant's early admission to the PSNI in respect of two of the charges, and guilty plea to all three charges, could be considered to be evidence of some insight. However, the Registrant's lack of engagement with the Council means that she has not demonstrated insight or remorse. He submitted that the Committee had no evidence before it to show that the Registrant has attempted to remediate her criminal behaviour, and that the public must have confidence that the Council, as a regulator of social care workers, will protect the most vulnerable in society when they are receiving care.

The Committee considered the submissions from Mr Carson on behalf of the Council, and had regard to all of the evidence in the case. The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Standards of Conduct and Practice for Social Care Workers, and advised it to adopt a sequential approach when considering the case. In particular, she asked it to take into account the nature and content of the criminal convictions against the Registrant, and reminded the Committee that it is being asked to determine whether the Registrant's fitness to practise is impaired because of the convictions. She referred the Committee to Paragraph 24 of Schedule 2 of the Rules, and the requirements as set out in the case of the GMC v Cohen, looking at the current competence and behaviour of the Registrant along with the need to protect service users, members of the public, the upholding of proper standards of behaviour and maintaining of public confidence in the social care profession. She further referred the Committee to the findings of Dame Janet Smith in the 5th Shipman Report as

regards the potential causes of impairment. She also referred the Committee to the cases of GMC v Meadows 2006 and CHRE v NMC & Grant 2011.

The Committee considered whether the Registrant's fitness to practise is impaired by reason of her convictions as set out in the Particulars of the Allegation.

The Committee, in considering the issue of impairment of fitness to practise, took account of Paragraph 24 (3) of Schedule 2 of the Rules, which states that it should have regard to:

- (a) whether it is satisfied as to the reason for the alleged impairment of fitness to practise;
- (b) the Standards of Conduct and Practice issued by the Council under Section 9 of the Act;
- (c) whether the impairment is capable of remediation;
- (d) whether the impairment has been remediated;
- (e) the risk of repetition; and
- (f) the public interest.

The Committee had regard to the Standards of Conduct and Practice for Social Care Workers, and the Council guidance titled 'Making a Determination of Impaired Fitness to Practise: Guidance for Committees on Remediation'. The Committee is satisfied that the Registrant's actions were in breach of the following Standards of Conduct:

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; and
- 2.11 Not engaging in practices which are fraudulent in respect of use of public or private monies.

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

- 5.1 Abuse, neglect or harm service users, carers or colleagues;
- 5.2 Exploit service users, carers or colleagues in any way; or
- 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 noted that the Registrant's convictions for fraud and attempted fraud arose out of attempts to use a service user's Mastercard debit card in September 2018, October 2018 and November 2018. The Committee concluded that these are very serious convictions. The Committee was particularly concerned that the convictions arose from events which took place during the Registrant's employment, and whilst she was providing care to a vulnerable service user in their own home.

In paragraph 76 of Grant [2011], Mrs Justice Cox referred to Dame Janet Smith's 'test', which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his / her fitness to practise is impaired in the sense that s/he:

- a. has in the past acted and / or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and / or*
- b. has in the past brought and / or is liable in the future to bring the medical profession into disrepute; and / or*
- c. has in the past breached and / or is liable in the future to breach one of the fundamental tenets of the medical profession; and / or*
- d. has in the past acted dishonestly and / or is liable to act dishonestly in the future.'*

The Committee determined that all four limbs of the test are engaged in this case. The Committee was of the view that the Registrant acted in a way that fell significantly short of the expected standard of a registered social care worker. Service User A was a vulnerable service user, receiving care in her own home. The Registrant abused her position of trust to put Service User A at unwarranted risk of financial harm. The Committee was in no doubt that the Registrant's conduct had breached the fundamental tenets of social care services, and therefore brought its reputation into disrepute. The Committee noted that the Registrant had been convicted of fraud and attempted fraud, and concluded that she had acted dishonestly in the past and was liable to act dishonestly in the future.

Although the Registrant pleaded guilty to the charges against her, the Committee had no information or evidence from her as regards any actions she had taken to remediate her behaviour. The Committee noted that there was no information before it to show that the Registrant acknowledged the impact of her behaviour on Service User A. The Committee heard that the Registrant took a photograph of Service User A's bank card, and concluded that the Registrant's actions were calculated and occurred on three occasions. The Committee has no evidence to suggest that the Registrant would act differently in the future. Accordingly, the Committee finds there to be a risk of repetition.

In all of the circumstances, the Committee concluded that a finding of impaired fitness to practise is, therefore, necessary for the maintenance of public confidence in the social care profession and the Council as its regulator, and that public confidence in the social care profession would be undermined if a finding of impaired fitness to practise was not made.

Therefore, the Committee concluded that the Registrant's fitness to practise is currently impaired by reason of her criminal convictions.

Sanction

In reaching its decision on sanction, the Committee considered the submission from Mr Carson on behalf of the Council, and had regard to all of the evidence in this case. Mr Carson referred the Committee to various

mitigating and aggravating factors, and to the NISCC Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees. As regards sanction, he submitted that a Warning would be totally inappropriate and inadequate in all of the circumstances, and would not provide protection for the public. He noted the Registrant's prior good working history; however, he submitted that the serious criminal convictions were not conduct at the lower end of the spectrum. He submitted that a Conditions of Practice Order was also not relevant, proportionate, or workable, taking into account the serious nature of the Registrant's criminal convictions and her lack of engagement. He submitted that a Suspension Order would not meet the risks of repetition, particularly in light of the Registrant's failure to acknowledge the impact of her behaviour. He submitted that the Registrant's criminal behaviour was fundamentally incompatible with her continuing registration as a social care worker.

The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees, and reminded the Committee to consider the question of sanction in ascending order of severity, paying particular attention to the issue of proportionality.

She referred the Committee to Paragraph 26 of Schedule 2 of the Rules which provides that, upon a finding of impairment of fitness to practise, the Committee may:

- (a) impose no sanction; or
- (b) warn the Registrant and direct that a record of the warning should be placed on the Registrant's entry in the Register for a specified period of up to 5 years; or
- (c) make a Conditions of Practice Order for a specified period not exceeding 3 years; or
- (d) make an Order suspending the Registrant's registration for a specified period not exceeding 2 years (a 'Suspension Order'); or
- (e) make an Order for removal of the Registrant's registration from the Register ('a Removal Order').

She further reminded the Committee that in deciding which sanction to impose, the Committee should take into account:

- (a) the seriousness of the particulars of the allegation;
- (b) the degree to which the Registrant has fallen short of any expected standards;
- (c) the protection of the public;
- (d) the public interest in maintaining confidence in social care services; and
- (e) the issue of proportionality.

The Committee applied the principles of fairness, reasonableness and proportionality, weighing the public interest with the Registrant's interests, and taking into account any aggravating and mitigating factors in the case. The public interest includes the protection of members of the public, including service users, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and

behaviour within the profession. The Committee took into account its powers under Paragraph 26 of Schedule 2 of the Rules in relation to the sanctions available to it, and also had regard to the Council's Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'), bearing in mind that the decision on sanction is one for its own independent judgement.

The Committee recognised that the purpose of sanction is not to be punitive, although a sanction may have a punitive effect. The Committee considered the aggravating and mitigating factors in this case.

The Committee considered the mitigating factors to be:

- The Registrant has the benefit of a good work history, with no previous referrals to the Council;
- Admissions were made to the PSNI at an early stage in respect of two of the charges;
- Guilty pleas were entered at Court to all three charges; and
- No financial loss to the service user, although the Committee had no evidence of the Registrant's role in repaying this money.

The Committee considered the aggravating factors to be:

- This was an abuse of trust;
- The Registrant's actions were dishonest and calculated;
- This was not an isolated incident - there were three separate attempts to use the card;
- No insight or remorse and, in particular, no insight into the impact that her actions had on Service User A; and
- No engagement with the Council.

No sanction - the Committee had no doubt that it would be entirely inappropriate to impose no sanction in this case. To impose no sanction would be inappropriate in view of the seriousness of the case, and would not address the concerns identified.

Warning – the Committee considered the issue of a Warning in this case. The Committee considered that the Registrant's criminal convictions and lack of engagement with the Council demonstrated a serious disregard for the Standards of Conduct and Practice for Social Care Workers. 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 this sanction would provide adequate public protection as far as the Registrant's suitability is concerned, bearing in mind that a Warning would entitle the Registrant to work unrestricted as a social care worker. The Committee had no evidence of corrective steps taken by the Registrant, nor did it have any references or testimonials as to her character and current circumstances. The Committee noted that there is no evidence before it as regards the Registrant's insight into her behaviour or its impact on Service User A. Therefore, a Warning would not be appropriate or proportionate to the serious nature of the convictions in this case.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Committee noted the Guidance at Paragraph 4.13, which states that conditions may be appropriate in cases involving particular areas of a registrant’s performance, and where a Committee is satisfied that it is appropriate for an individual to remain on the Register. The Registrant has demonstrated no insight into her criminal actions, nor expressed a desire to remediate her criminal behaviour. The Committee, therefore, concluded that a Conditions of Practice Order was not sufficient to meet the public interest in this matter, given the seriousness of the Registrant’s departure from the standards expected of a registered social care worker. In these circumstances, the Committee could not formulate workable, enforceable, or verifiable conditions which would address the Registrant’s criminal behaviour and adequately protect the public.

Suspension – the Committee next considered a Suspension Order. The Committee noted that the criminal convictions of the Registrant are of a serious nature and related to the Registrant’s breaching of fundamental principles of honesty and trust. The Committee took into account the Guidance at Para 4.19, which states: ‘Suspension from the Register may be an appropriate sanction for impairment which while very serious, is not so serious as to justify removal from the Register; for example, where there has been an acknowledgment of failings and where a Committee is satisfied that the behaviour is unlikely to be repeated, and the Registrant has no psychological or other difficulties preventing them from understanding and seeking to remedy the failings and the failings are realistically capable of being remedied, then suspension may be appropriate.’ The Committee considered that the Registrant’s criminal convictions evidenced behaviour that is fundamentally incompatible with registration as a social care worker. The Committee determined that a Suspension Order would not address the risk of repetition as identified above. The Committee has no evidence of insight or remediation from the Registrant, nor has it any information to indicate that the Registrant is unlikely to repeat her criminal behaviour in the future. The Committee considered that a social care worker should be honest and trustworthy, particularly where a service user is dependent on a social care worker to provide protection and support. The Committee considered that the public would view the Registrant’s criminal behaviour as falling far below what would be expected of a registered social care worker. In all of the circumstances, the Committee concluded that a Suspension Order would not be sufficient to mark the seriousness and unacceptable nature of the Registrant’s criminal convictions.

Removal – the Committee next considered a Removal Order. In considering this, the Committee took into account the Guidance at Para 4.26 – 4.28. The Committee concluded that given the seriousness of the Registrant’s criminal convictions, and her lack of insight and remediation of her failings, a Removal Order is the only sufficient sanction. The Committee considered that the Registrant’s criminal behaviour was a deliberate and fundamental breach of trust in her position as a social care worker, involving a vulnerable service user. The Committee determined that the Registrant’s behaviour was fundamentally incompatible with being a registered social care worker. In all of the circumstances, the Committee concluded that a Removal Order is the only sanction available to it to protect the public and to meet the public interest, and to mark the seriousness and unacceptability of the Registrant’s criminal behaviour. The Committee considered the potential devastating

impact of a Removal Order on the Registrant, but concluded that the protection of service users and wider public interest in the system of regulation outweighed the impact on the Registrant.

The Committee concluded 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.

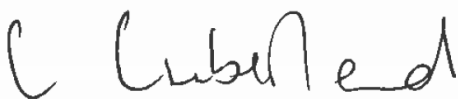
The effect of this decision is that your entry in the Register has been removed.

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 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 care role until a successful application for restoration onto the Register has been made to the Council.



10 June 2021

Regulatory Committee Manager

Date