

**Notice of Decision**

<b>Registrant</b>	<b>Donal Nash</b>
<b>Registration number</b>	<b>6034533</b>
<b>Part of Register</b>	<b>2</b>
<b>Sanction</b>	<b>4 Year Warning</b>
<b>Date of Effect</b>	<b>30.7.21</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 misconduct, 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 4 years.

**Misconduct**

That whilst being registered as a social care worker, and whilst on shift on 14 July 2019 as a Support Worker at Mencap NI:

- (i) In response to an episode of challenging behaviour from Service User A, you inappropriately placed your hands on Service User A and moved him away; you also put your foot against Service User A whilst he was sitting on the floor and pushed him away from you.
- (ii) You used a method of restrictive practice by withholding service user A's morning snacks.
- (iii) You accepted that you did not follow the TEACCH activity 'WALK' and demonstrated an inappropriate attitude when you stated that you could not be bothered to do so.
- (iv) Your actions at 1-3 above were in contravention of the Support Plan and the Behaviour Response Plan in place for Service User A.
- (v) You failed to report and record the incident outlined at (i) above.

**Reasons**

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

- Social care workers are expected to establish and maintain the trust and confidence of service users and carers. Failing to adhere to the service user's Support Plan and Behaviour Response Plan, placed Service User A at risk of harm and such actions undermine trust and confidence in social care services.
- The allegations are serious in regard to your inappropriate handling of a highly vulnerable service user with a severe Learning Disability, your restrictive practice in withholding food from the service user concerned and your failure to report and record the incident on 14.7.19.
- Your behaviour has fallen significantly below the standard expected of a person registered with the Northern Ireland Social Care Council.

## **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:

### **NISCC Standards of Conduct & Practice breached**

#### **Standard 1**

**As a social care worker, you must protect the rights and promote the interests and wellbeing of service users and carers.**

This includes:

**Standard 1.2** Treating people with consideration, respect and compassion

#### **Standard 3**

**As a social care worker, you must promote the autonomy of service users while safeguarding them as far as possible from danger or harm.**

This includes:

**Standard 3.7** Recognising and using responsibly with service users and carers, the power that comes from your work role.

#### **Standard 5**

**As a social care worker, you must uphold public trust and confidence in social care services.**

In particular you must not:

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

#### **Standard 6**

**As a social care worker, you must be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills.**

This includes:

**Standard 6.4** Maintaining clear and accurate records as required by procedures established for your work;

## Standards of Practice

### Standard 1

**As a social care worker, you must understand the main duties and responsibilities of your own role within the context of the organisation in which you work.**

This includes:

**Standard 1.2** Accessing full and up to date details of policies, procedures and agreed ways of working from your employer and adhering to them;

**Standard 1.8** Reporting any adverse events, incidents, errors and near misses that are likely to affect the quality of care and wellbeing of service users or carers.

### Standard 3

**As a social care worker, you must deliver person- centred care and support which is safe and effective.**

This includes:

**Standard 3.2** Delivering care in line with assessed needs and service user and carer preferences

### Standard 5

As a social care worker, you must maintain health and safety at work.

This includes:

**Standard 5.3** Applying your organisation's policies and procedures in relation to moving and handling service users.

## 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 4 years.

### Reasons for the Sanction

When reaching its decision the Council considered the following factors:

The Council has considered your impairment in accordance with the Council's '*Indicative Sanctions Consensual Disposal Guidance*' and the Council considers a consensual warning, to remain on your record for a period of four years, to be appropriate for the following reasons:

- Your actions caused avoidable emotional distress to Service User A which led to the service user losing trust in the care team.
- You were the Practice Lead in the service and in a position of trust. This role required you to lead by example in your professional conduct whilst on duty.
- You failed to report and record the incident which occurred with Service User A whilst you were on duty on 14.7.19, contrary to Mencap NI Policy and procedure.
- You resigned during your former employer's investigation on 11.9.19, whilst a Joint Protocol investigation was ongoing, and you have failed to engage with the fitness to practise investigation to date.

- You failed to follow the Support Plan and Behaviour Response Plan for Service User A and you also failed to adhere to your positive behaviour management training which were in place to support a vulnerable service user with a severe learning disability.
- Your behaviour has demonstrated a serious disregard for the NISCC Standards of Conduct and Practice.

The following mitigating circumstances were taken into account in reaching this decision:

- By your own admission during your former employer's investigation, you admitted to putting your hands on Service User A and putting your foot on Service User A to move him away. You also admitted that you had withheld Service User's A snacks but stated this was not done in malice.
- You demonstrated a little insight in regard to not following the service user's support plan and you recognised that you could have handled the situation better and sought help.
- There is no previous record of misconduct with the Council.

### **Date of Effect**

This warning comes into effect on 30 July 2021. A record of the warning has been placed on your entry in the Register for a period of 4 years and does not affect your ability to practise.

*Oliver Maicher*

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Head of Fitness to Practise

30<sup>th</sup> July 2021

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Date

**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.**