

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

Name: Kara Elizabeth Nixon

SCR No: 1095562

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **20, 21, 22, 23 and 24 September 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 your misconduct;

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

Particulars of the Allegation:

That, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), and whilst employed as a social worker:

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|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | On dates unknown between 06 July 2009 and 16 March 2016, you used inappropriate and / or derogatory language in relation to service user(s). |
| 2. | On dates unknown between 06 July 2009 and 16 March 2016, you used inappropriate and / or derogatory language in relation to a colleague [name redacted]. |
| 3. | In respect of some or all of the dates set out in Appendix A, you over-claimed mileage for reimbursement of travel by submitting claims with inflated distances for journeys. |
| 4. | In respect of some or all of the dates set out in Appendix B, you over-claimed mileage for reimbursement of mileage which was not allowable under Section 17 of the NHS Terms and Conditions of Service Handbook. |
| 5. | Your actions set out in 3 and 4 above were dishonest. |

And that by reason of the matters set out above, your fitness to practise is impaired by reason of your misconduct.

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Matters

Service

Mr Wilson addressed the Committee on the service of the Notice of Hearing and hearing bundle. He said that the Registrant was represented by her solicitor, Ms Diane Coulter. He told the Committee that the Registrant's solicitor had advised the Council on a number of occasions that the Registrant wanted all documentation to be sent to her solicitor. Accordingly, the Notice of Hearing and hearing bundle were forwarded to the Registrant's solicitor by way of email on 10 August 2021, with an electronic delivery receipt received on the same date.

Mr Wilson told the Committee that he had contacted the Registrant's solicitor on 17 September 2021 to confirm that the Registrant was aware of the hearing, and that the solicitor had no objections to accepting service of the documentation as previously agreed. He said that the Registrant's solicitor confirmed that the position remained the same, and that her client accepted that service had been properly effected.

Mr Wilson referred the Committee to Rule 3 (2) of the Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019 ('the Rules'), and submitted that the Notice of Hearing to the Registrant was properly served on an electronic mail address, notified by the Registrant as an address for communications.

The Committee heard and accepted advice from the Legal Adviser. She referred the Committee to Rule 3 of the Rules.

The Committee noted that the Registrant notified the Council that all correspondence and documentation in relation to this matter should not be sent to her, and should be sent to her solicitor. The Council, in compliance with this request, ensured that all communication with the Registrant was sent to her solicitor. Taking this into account, the Committee was satisfied that the Registrant had been notified of this hearing, and that the Notice of Hearing had been served, on 10 August 2021, in accordance with Rule 3 and Paragraph 5 (2) of Schedule 2 of the Rules 2019.

Proceeding in the Absence of the Registrant

Mr Wilson invited the Committee to proceed to deal with the fitness to practise hearing in the Registrant's absence and without representation. He referred the Committee to the email from the Registrant's solicitor, Diane Coulter, dated 19 July 2021, in which she stated:

'We have checked again with our client and her position remains as before she cannot on health rounds [sic] attend the hearing and given her limited income now cannot afford to pay for legal representation on her behalf to attend a 5 day hearing.'

He said that there had been no request for an adjournment of the hearing, nor was there any indication that the Registrant would attend a hearing at any time in the future. He submitted that the Registrant had voluntarily absented herself. He further noted that no specific health issues were raised by the Registrant in relation to the Particulars of the Allegation. He noted that her health matters appeared to arise from the investigation process.

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.

The Committee 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 noted the email from the Registrant's solicitor, dated 19 July 2021, in which she stated that the Registrant was unable to attend due to her health and that the Registrant could not afford to pay for representation at a five day hearing. The Committee noted that the Registrant's solicitor had not asked for an adjournment in any communication with the Council. The Registrant's solicitor, on a number of occasions, confirmed that the Registrant would not be participating in the hearing, and referred to previous written submissions made on her behalf.

Therefore, after careful consideration of all of the issues, the Committee decided to exercise its discretion to proceed in the absence of the Registrant, taking into account the serious nature of the allegations, and striking a careful balance between fairness to the Registrant and the wider public interest. The Committee took into account that there were six witnesses attending to give evidence. In addition, the Particulars of the Allegation related to a period between 06 July 2009 and 16 March 2016. The Committee, in all of the circumstances, considered that the Registrant had voluntarily absented herself from today's hearing. However, the Committee reminded itself that it must avoid reaching any improper conclusion about the Registrant's absence, nor treat the absence as an admission.

Application to Admit Hearing Bundle

Mr Wilson confirmed to the Committee that the hearing bundle provided to them complied with the requirements of relevance and fairness, and that the Registrant had made no objections or asked for anything to be added.

The Committee accepted the bundle into evidence and marked it as Exhibit 1. Correspondence from the Registrant's solicitor regarding the Allegation was labelled as Exhibit 2. The Committee noted that the Registrant made no admissions to the Particulars of the Allegation.

Declarations of Conflicts of Interest

The Chair of the Committee confirmed that all Committee Members had received and read the bundle, and confirmed that they had no conflicts of interest with the case.

Background

Mr Wilson told the Committee that the Particulars of the Allegation against the Registrant related to a period between 06 July 2009 and 16 March 2016, when the Registrant was employed as a social work team manager in the Southern Health and Social Care Trust's ('the Trust') Court Looked After Children (LAC) team. He said that the Registrant is a qualified social worker, registered on Part 1 of the Social Care Register. He told the Committee that the matter came to the attention of the Trust by way of a whistleblowing complaint, and that an investigation was commenced. He said that the Registrant resigned on 16 March 2016. He referred the Committee to Particular 1 and Particular 2 of the Allegation, and said that the dates mentioned cover the period of the Registrant's employment in this role with the Trust.

Evidence

The Committee received into evidence Exhibit 1 and Exhibit 2, and heard oral evidence from six witnesses, tendered on behalf of the Council. Five of the witnesses called on behalf of the Council were former colleagues of the Registrant. The sixth witness was a corporate financial accountant with the Southern Health and Social Care Trust.

The Committee noted that the 'colleague [name redacted]' referred to in Particular 2 is to be hereafter referred to as Colleague A.

Finding of Facts

In reaching its decision on the facts, the Committee considered all of the evidence adduced in this case, together with the submissions made by Mr Wilson, on behalf of the Council. In addition, the Committee took into account the written submission from the Registrant's solicitor, dated 13 November 2020. The Committee heard and accepted the advice of the Legal Advisor. The Committee was aware that the burden of proof rests on the Council, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the Committee is satisfied that it was more likely than not that the incidents occurred as alleged.

The Committee then considered the Particulars of the Allegation:

Particular 1: On dates unknown between 06 July 2009 and 16 March 2016, you used inappropriate and / or derogatory language in relation to service user(s).

The Committee heard direct evidence from five witnesses in relation to this Particular of the Allegation, all of whom worked with the Registrant in the LAC team based in St Luke's, Armagh and some, subsequently, when the team relocated to Lisanally.

Witness 1 gave evidence that she worked in the LAC team as a social worker from February 2015 until December 2015. The Committee found her recall of dealings with the Registrant and her use of inappropriate language to be clear and detailed. In particular, at Paragraph 5 in her written statement, dated 19 September 2017, she

recalled an incident which took place during a lunch break in the presence of her team colleagues. She gave evidence that she heard the Registrant talking about an out of hours' case involving the sexual abuse of a five-year-old child. She described the Registrant's language on this occasion as 'trashy', and also referred to the child as 'giving blowjobs in the estate'. This witness gave evidence to the Committee that she considered that the Registrant's language was extremely insensitive, inappropriate and made her feel uncomfortable. She was unable to recall the exact date that this incident occurred. She recalled a further incident when she reported to the Registrant that the mother of a young service user had died, and that the Registrant responded by saying 'sure that's one less for you to worry about'. She said that she was shocked by this comment. She said that she definitely thought that this incident has taken place during her first couple of months in the job. Witness 1 accepted that the Registrant was positive and supportive when needed. However, the ethos, culture, language and behaviour was something that she had not experienced before. She said that she did not complain to anyone about this as she was new to the role, and that since leaving the service she realised how inappropriate some of the comments were that the Registrant had made.

The Committee heard evidence from Witness 2, who worked in the LAC team as a social worker from October 2012 to 2016. She described the work of the team as being stressful and under-resourced. She told the Committee that the Registrant was her line manager and was the sort of person 'who just says it how it is'. Witness 2 described this as 'venting' and that it may have been her way of dealing with the complexities of her role. She gave evidence that the Registrant cursed a lot and that this was part of her everyday vocabulary. The Committee noted that Witness 2 was unable to give any specific examples of any inappropriate or derogatory language, and said that the Registrant would not have used such language in front of service users.

The Committee heard evidence from Witness 3, who worked as a contact officer with the LAC team from September 2012 through to 2014. She described the team as haphazard, badly managed and under-resourced. She gave evidence that the Registrant was unprofessional in her language, and recalled one occasion when the Registrant described the mother of a young service user as a 'cock sucker'. Witness 3 gave evidence that the Registrant's language was very graphic, and that it shocked and stunned her. She told the Committee that she felt unable to approach her manager about this and had been keen to leave the team.

The Committee heard evidence from Witness 4, who worked in the LAC Team as a social worker from October 2012 until April 2014. She gave evidence that the Registrant used derogatory, sexualised and inappropriate language about service users. She said that this shocked her and, as a newly qualified social worker in her first permanent post, she had not experienced anything like this before. She gave evidence of three specific examples of the Registrant using inappropriate language. On one occasion, she described the Registrant as referring to a child who was sexually abused as having 'got it up the bum'. On another occasion, she described the father of a young service user as a 'dirty old man'. On another occasion, she gave evidence that the Registrant referred to the mother of a young service user as needing a 'good seeing to', and as a 'cock sucker'. The Committee found the evidence from this witness to be clear and specific. The Committee took account of Witness 4's oral evidence when she said that, on reflection, by failing to challenge the Registrant's inappropriate

language, she felt that she had failed both service users and herself. She told the Committee that she did not think that the Registrant grasped the inappropriateness of her language, and was not conscious of the impact of this on her colleagues. The Committee found this witness to be clear in her recollections, and gave specific examples of incidents of concern.

The Committee heard evidence from Witness 5, who worked in the LAC team as a social worker from October 2013 to December 2014. She gave evidence that the team was highly pressured, and dealt with complex cases involving very graphic and disturbing family situations. She said that the Registrant, who managed the team, was at times extremely unprofessional and used derogatory and sexualised language in her every day speech. She referred to two occasions when the Registrant, in talking about a sexual assault, described the assault as 'up the bum'. She gave evidence that the Registrant referred to service users, her friends, personal acquaintances and colleagues as 'cock suckers'. She gave evidence that the team was busy focusing on cases, and that the Registrant's language was not a priority concern. She went on to say that she believed that there was no malice in the Registrant's use of inappropriate language. Witness 5 said that this was just how the Registrant spoke and that she did not mean to be offensive or to cause harm. She said that she believed that the team were desensitised to the majority of the Registrant's language, and that this may have been the Registrant's way of dealing with pressure. She did not recall the Registrant using such language in front of service users. She told the Committee that she did not have the confidence to say anything to the Registrant as she did not think that it would have made any difference. The Committee found this witness's evidence to be credible and consistent.

The Committee noted that the time period referred to in the Particulars of the Allegation covers the Registrant's total period of employment with the Trust. The Committee took into account the Council's submission that this time period was used as the witnesses were unable to give specific dates in relation to their witnessing of the language used by the Registrant. However, the Committee accepted that within each witness's period of employment in the LAC Team, they were able to recall specific incidents and give evidence of particular words used even though they were unable to recall the date when these occurred. The Committee, therefore, considered that it had sufficient evidence to fully consider this Particular of the Allegation.

The Committee determined that the evidence which it received from these five witnesses was broadly consistent in terms of the culture of the office and, specifically, the type of language used by the Registrant. In particular, the Committee noted the clear evidence from Witnesses 4 and 5 as regards specific language used by the Registrant, giving compelling detail and explaining how this language was inappropriate, derogatory and unprofessional.

The Committee noted that none of the witnesses raised concerns at the time, and that the Registrant, in the written submission of 13 November 2020, maintained that she worked in a professional manner at all times and had never received any complaints or comments. The Committee considered that there was broad corroboration in the evidence from the witnesses, and accepted the reasons which they gave for not raising their concerns about the Registrant's language. In particular, the Committee noted Witness 4's evidence that she felt, in

hindsight, that she had failed service users and herself in not addressing the inappropriate language used by the Registrant.

The Committee found all five witnesses to be credible, and accepted their evidence in respect of this Particular of the Allegation. Accordingly, the Committee found this Particular of the Allegation proved on the balance of probabilities.

Particular 2: On dates unknown between 06 July 2009 and 16 March 2016, you used inappropriate and / or derogatory language in relation to a colleague [name redacted].

The Committee heard evidence from Witness 1 in relation to this Particular of the Allegation. She told the Committee that Colleague A was the head of the service, and that the Registrant was often disrespectful about him. She said that the Registrant would refer to Colleague A as 'that fucking [A] one'. She said that the Registrant often made petty comments about Colleague A's physique and, behind his back, would often refer to the size of his hands, and roll her eyes when he wasn't looking. She said that Colleague A did not hear or notice this and that this was totally inappropriate behaviour.

The Committee considered that this witness gave credible and clear evidence in relation to this Particular of the Allegation. This witness worked in the LAC team from February 2015 until December 2015. The Committee accepted her evidence and found this Particular of the Allegation proved on the balance of probabilities.

Particular 3: In respect of some or all of the dates set out in Appendix A, you over-claimed mileage for reimbursement of travel by submitting claims with inflated distances for journeys.

In considering this Particular of the Allegation, the Committee took into account the evidence from Witness 6, along with the documentary evidence exhibited to her statement of 18 September 2018. Witness 6 is a Corporate Financial Accountant and Fraud Liaison Officer with the Trust. She told the Committee that during a disciplinary process involving the Registrant, issues arose regarding potential discrepancies in mileage claimed by the Registrant. She said that copies of the Registrant's mileage claim forms and her diary were forwarded for consideration. An interim report was prepared by Ms C from the Business Service Organisation's Counter Fraud team. She said that this report looked at the Registrant's mileage claims from 2014 until 2016. She gave evidence that the Registrant inflated distances for journeys during this period, and referred the Committee to the spreadsheets prepared by Ms C and annexed to the report. She gave evidence of three examples of over-inflated calculations on 10 April 2014, 14 May 2014 and 28 May 2014. Her statement outlined these as follows:

'10/04/14 - Claim was "home - base - Portadown - Lurgan - base - home". [The Registrant's] base was St Luke's Hospital. The distance between her base and Lurgan via Portadown is 17 miles. [The Registrant] has charged 67 miles, however according the Google maps [sic], and deducting home to base miles, the distance is only 34 miles. If she went straight from her home to the meeting in Portadown then her total would have been 24 miles. [The Registrant] therefore either should have charged a total of 24 or 34 miles. [The Registrant] charged 67 miles for this journey.

14/05/14 - This is an example of one of the claims in which she charged for travelling to Belfast. The only place I think she would ever have to attend in Belfast is the High Court. On each occasion where she travels to Belfast she calculates the claim at 100 miles. The distance from her base [St Luke's Hospital] to the High Court in Belfast is 41 miles each way. She should have therefore claimed a total of 82 miles, however she has claimed 100 miles.

28/05/14 - The journey claimed was Home-Base-Newry-Base-Home, [The Registrant] claimed 67 miles for that day. The actual miles from Base Armagh to Newry is 19 so return trip would be 38 miles. This is an overclaim of 29 miles for the day. Alternatively if [the Registrant] travelled directly from her home to Newry and then returned direct to her home the mileage claim should be 36 miles. While there is a note of a meeting in Newry on that day in [the Registrant's] diary, the BSO Counter Fraud Investigator was unable to confirm or substantiate the meeting.'

Witness 6 told the Committee that she gave the Registrant the benefit of the doubt when calculating mileage and always rounded them up. In addressing questions from the Committee, she gave evidence regarding how mileage can be calculated by a Trust employee. She said that there are some standard distances available. However, employees can use AA Route Finder or Google Maps. She confirmed that there was no specific Trust policy on the manner in which distances should be calculated. She confirmed that in completing her report, Ms C would not have accessed the Registrant's emails or case file notes. She gave evidence that travel claim forms should be scrutinised by line managers and that it is incumbent on each line manager to consider the claim. She accepted that the Registrant's line manager did not raise any concerns about the Registrant's travel claims, and said that this was a management failure. Witness 6 said that she had not examined the claim forms herself, and that the information in the spreadsheet at Exhibit FJ 5 was taken directly from the claim forms submitted by the Registrant. She confirmed in her evidence that consideration was only given to matters that correlated to meetings recorded in the Registrant's diary.

Witness 6 addressed the issue of different calculated amounts over claimed by the Registrant, and said that when the Registrant challenged the invoice requesting payment for the monies overpaid to her, she undertook a review of the calculations and calculated the miles over claimed at 5848 miles, at 0.17 pence per mile, being £994.16.

The Committee examined in detail the report prepared by Ms C as exhibited and referred to by Witness 6 in her evidence. In particular, the Committee noted that the following extracts from the interim report, as relevant to this Particular of the Allegation, stated as follows:

'The investigator was given the following documents belonging to the accused:

- 2014 Work Diary
- 2014 [the Registrant] Travel Claims (January- December)
- 2015 Work Diary
- 2015 [the Registrant] Travel Claims (January- December)

The information in relation to the subjects [sic] travel claims, i.e. Date, Journey details, miles claimed, was entered onto excel spreadsheets.

- Appendix A represents 2014 claims*
- Appendix B represents 2015 claims.*

AA Route planner online was used by the investigator to accurately record each journeys [sic] mileage and the numbers were rounded up to the nearest mile to allow for small adjustments.

BT61 7HW was the postcode used representing the subjects [sic] base/work place, on all calculations.

This information was then cross matched with her diary. If [the Registrant] was seen to attend the meeting/court/training as stated in her diary then this was coded as a confirmed and valid journey...

...To that end, it is recommended that the subject, [the Registrant] is given the opportunity to be questioned about the findings of this investigation.

[The Registrant] needs to explain as part of her disciplinary hearing within the Southern Health and Social Care Trust, why there are differences in mileage.

...On each claim the investigator used the exact information provided in the claim in order to accurately record the mileage. It has been assumed that [the Registrant] did not deviate anywhere else in that journey.

Whilst the author of this interim report did not give direct evidence to the Committee, the evidence from Witness 6 was that she reviewed this interim report and carried out further investigations into this Particular of the Allegation. Witness 6 was able to answer the Committee's questions in a clear manner in relation to the process used when calculating mileage for travel claim forms. She gave evidence that she assumed that the Registrant, as senior team manager, was aware of Trust policies as regards completion of travel claim forms.

The Committee considered that Witness 6 was able to give clear evidence on the information contained in the interim report prepared by Ms C. Although the Committee identified and accepted that there were some discrepancies in relation to the amounts of repayments invoiced to the Registrant, the Committee placed considerable weight on the findings of this interim report and, in particular, to the spreadsheets for 2014 and 2015 travel claims. Taking the oral evidence and the documentary evidence presented by Witness 6, the Committee found this Particular of the Allegation proved on the balance of probabilities.

Particular 4: In respect of some or all of the dates set out in Appendix B, you over-claimed mileage for reimbursement of mileage which was not allowable under Section 17 of the NHS Terms and Conditions of Service Handbook.

In considering this Particular of the Allegation, the Committee took into account the evidence of Witness 6 and the documentary evidence exhibited to her statement of 18 September 2018. As referred to in Particular 3, the Committee paid specific attention to the interim report prepared by Ms C. As regards this report, the Committee noted the following extracts:

'...It has been alleged, as part of an ongoing disciplinary matter that [the Registrant] has been including her Home to Base mileage, for every business trip that she made in 2014 & 2015. This is an extra 12 mile [sic] for every return journey.

'...The investigator was given the following documents belonging to the accused:

- 2014 Work Diary*
- 2014 [the Registrant] Travel Claims (January- December)*
- 2015 Work Diary*
- 2015 [the Registrant] Travel Claims (January- December)*

The information in relation to the subjects [sic] travel claims, i.e. Date, Journey details, miles claimed, was entered onto excel spreadsheets.

- Appendix A represents 2014 claims*
- Appendix B represents 2015 claims.*

AA Route planner online was used by the investigator to accurately record each journeys [sic] mileage and the numbers were rounded up to the nearest mile to allow for small adjustments.

BT61 7HW was the postcode used representing the subjects [sic] base/work place, on all calculations.

This information was then cross matched with her diary. If [the Registrant] was seen to attend the meeting/court/training as stated in her diary then this was coded as a confirmed and valid journey...

....To that end, it is recommended that the subject, [the Registrant] is given the opportunity to be questioned about the findings of this investigation.

[The Registrant] needs to explain as part of her disciplinary hearing within the Southern Health and Social Care Trust, why there are differences in mileage.

...On each claim the investigator used the exact information provided in the claim in order to accurately record the mileage. It has been assumed that [the Registrant] did not deviate anywhere else in that journey.

It has been established that there has been a Home to Base mileage claim made on every journey in 2014 and 2015.

It has been assumed that [the Registrant] was not entitled to claim Home to Base mileage on any of her journeys, although the trust [sic] has still to confirm this.

Claiming Home to base mileage is against company policy as identified in HRPTS User Guidelines, which is a document available to all permanent members of Health and Social care staff. It clearly states in this document under "Guidance on entering journey start and end locations, and journey details" that an employee "must also confirm that appropriate home-base mileage has been deducted for any journeys involving travel to/from your home".'

In her evidence, Witness 6 referred the Committee to Section 17 of the HRPTS User Guidelines. She told the Committee that Section 17.15 states as follows:

'Eligible mileage

17.15 Employees will be reimbursed for miles travelled in the performance of their duties which are in excess of the home to agreed work base return journey. Normally, the miles eligible for reimbursement are those travelled from the agreed work base and back. However, when the journey being reimbursed starts at a location other than the agreed work base, for example home, the mileage eligible for reimbursement will be as set out in the example in Table 8.'

Witness 6 gave evidence of her own practice when completing her travel claim forms, and said that she always deducted her home to base mileage at the end of any calculation. She gave evidence that Trust employees are not entitled to claim for home to base mileage reimbursement. She said that this is explained to new employees at induction. She noted that staff in the Registrant's team correctly deducted the home to base miles when completing travel claim forms. She referred the Committee to the interim report and the travel claim made by the Registrant on 28 May 2014. She said that the journey claimed was for Home – Base – Newry – Base – Home. She said that the Registrant had not deducted the home – base mileage in this travel claim. She noted that the interim report found that the Registrant had included her home to base mileage for each trip that she made in the years 2014 and 2015.

The Committee, in considering this Particular of the Allegation, placed weight on the report prepared by Ms C and the oral evidence regarding this report provided by Witness 6. Although the author of this interim report was not before the Committee, Witness 6 was able to address the Committee's questions about the report and gave evidence in a clear and specific manner. The Committee considered that the Registrant would have been aware of the Trust policy as regards not claiming home to base mileage. The Committee noted that this policy was in place from 2004 and that there was no evidence of any change to this policy. The Committee further noted that the Registrant, as a team manager, was responsible for countersigning the travel claims from her staff, and the Committee accepted Witness 6's evidence that staff within the Registrant's team did not claim home to base mileage. The Committee accepted the information contained in the spreadsheet prepared by Ms C, which sets out when the Registrant included home to base mileage in her travel claims, as detailed in Appendix B annexed to the Particular of the Allegation.

Taking all of the evidence into consideration, the Committee found this Particular of the Allegation proved on the balance of probabilities.

Particular 5: Your actions set out in 3 and 4 above were dishonest.

Having found proved Particulars 3 and 4 of the Allegation, the Committee then went on to consider whether these actions were dishonest.

The Committee received a submission from Mr Wilson in relation to this Particular of the Allegation. He submitted that the Registrant's actions in Particulars 3 and 4 of the Allegation were dishonest, and constituted a systematic pattern that was neither inadvertent nor accidental. He said that her actions were not innocently done, and that there was no evidence of a misconception as to what was allowable when submitting travel claims. He submitted that the Registrant knew the rules to be applied, and was able to apply the rules correctly and properly to other team members. He said the Registrant was, therefore, dishonest in submitting the claims in the manner alleged.

In relation to Particular 3, the Committee noted that the Registrant, an experienced social worker who had worked for the Trust for approximately seven years, would have been aware of Trust policies in relation to the completion of travel claim forms. The findings contained in the interim report prepared by Ms C presented a range of dates in 2014 – 2016 when the Registrant over-claimed mileage by submitting claims with inflated distances for journeys. The Committee, therefore, found that the Registrant's actions were not accidental, inadvertent or isolated in nature. Whilst the Registrant's travel claim forms were countersigned by her own line manager, apparently without question, the Registrant as the senior manager for her own team would have been responsible for countersigning travel claim forms. Consequently, the Registrant would have been aware of the need for travel claim forms to be in compliance with Trust policies and an accurate reflection of mileage undertaken. Having considered all of the occasions on which the Registrant over-claimed mileage in her travel claim forms, the Committee did not consider that the Registrant could have had a reasonable belief that the mileages which she claimed were accurate. The Committee considered, therefore, that the Registrant's actions were dishonest by the objective standards of ordinary decent people. Taking all of these circumstances into account, the Committee found, on the balance of probabilities, that the Registrant's actions set out in Particular 3 were dishonest.

In relation to Particular 4, the Committee again noted that the Registrant was an experienced social worker and as the team manager of the LAC team, would have been aware of the Trust policy in relation to not claiming mileage for home to base journeys. The Committee found it notable that the Registrant's team members did not claim home to base mileage, and that the Registrant was responsible for countersigning these claims. The Committee had no evidence to suggest that the Registrant was permitted in any way to make these claims against the Trust policy. The Committee, therefore, did not consider it reasonable to think that the Registrant was unaware that home to base mileage was not permitted as a travel claim. The Committee took account of the Registrant's submission, and noted that there was no reference to her having an exemption to Trust policy allowing her to claim home to base mileage. Importantly, the Committee noted that every travel claim submitted by the Registrant during the period concerned contained home to base mileage claims, and that this therefore was not a pattern of behaviour that was accidental or isolated in nature. The Committee considered that the Registrant's actions would be considered dishonest by the objective standards of ordinary decent people.

Taking all of these circumstances into account, the Committee found, on the balance of probabilities, that the Registrant's actions set out in Particular 4 of the Allegation were dishonest.

Fitness to Practise

The Committee moved on to consider if the Registrant's fitness to practise is impaired. The Committee heard submissions from Mr Wilson. He submitted that the Registrant's fitness to practise is impaired by reason of her misconduct. He submitted that, in the opinion of the Council, the following Standards of Conduct have been breached: Standard 1.1, 1.2 and 1.8, Standard 2.1, 2.2 and 2.11, Standard 5.1 and 5.8 and Standard 6.13. He submitted that the language used by the Registrant, found to be inappropriate, derogatory and unprofessional, showed a lack of respect and compassion for service users. He submitted that the Registrant's dishonest actions in over-claiming mileage resulted in a significant financial gain to her, with a corresponding loss to her employer. He said that the Registrant's actions constituted multiple breaches of the Standards of Conduct and Practice for Social Workers, and that there was no evidence before the Committee of remediation. In all of the circumstances, he submitted that the Registrant's fitness to practise is impaired by reason of her serious misconduct.

The Committee heard and accepted the advice of the Legal Adviser. She referred the Committee to Paragraph 24 of Schedule 2 of the Rules and the requirements as set out in the case of GMC v Cohen. She directed the Committee to the findings of Dame Janet Smith in her 5th report to the Shipman Inquiry and her guidance on the causes of impairment. She also referred the Committee to the cases of GMC v Roylance and CHRE v Grant.

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 the Committee shall 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 first considered whether the facts found proved amounted to misconduct. Particulars 1 and 2 of the Allegation against the Registrant related to her using inappropriate and derogatory language on a regular and repeated basis. Her use of inappropriate language included descriptions of service users and, in particular, Colleague A. Witnesses 1 to 5 all described being shocked at the language used by the Registrant, and indicated that they had never experienced this in any other work environment. This conduct occurred within the workplace and the Committee determined that it was serious. Although there was no evidence that the Registrant used this language in front of service users, the Committee considered that the Registrant's language was totally disrespectful to her colleagues, and unacceptable under any circumstances.

The Registrant's actions in over-claiming mileage by way of inflating distances for journeys, and also in contravention of Trust policy, involved repeated dishonest actions which the Committee considered constituted serious misconduct.

The Committee was satisfied that the general public would consider the Registrant's actions, as found proved in the Particulars of the Allegation, to be deplorable and falling short of what is expected of a registered social worker.

The Committee had regard to the Standards of Conduct and Practice for Social Workers, and found the Registrant's misconduct to be in breach of the following Standards:

Standard 1: As a social worker, you must protect the rights and promote the interests and wellbeing of service users and carers. This includes:

- 1.2 Treating people with consideration, respect and compassion; and
- 1.8 Respecting and maintaining the dignity and privacy of service users.

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

- 2.1 Being honest and trustworthy;
- 2.2 Communicating in an appropriate, open, accurate and straightforward way; and
- 2.11 Not engaging in practices which are fraudulent in respect of use of public or private monies.

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

- 5.1 Abuse, neglect or harm service users, carers or colleagues; 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.

Standard 6: As a social worker, you must be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills. This includes:

- 6.13 Working openly and co-operatively with colleagues and treating them with respect.

The Committee determined that the facts found proved involved serious and repeated departures, over a prolonged period of time, from the Standards of Conduct expected of a registered social worker.

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 work profession.

In the Committee's judgement, the Registrant's use of derogatory and inappropriate language in relation to services users and Colleague A brought the social work profession into disrepute. Although the Registrant did not use this language in front of service users or Colleague A, she described service users and her colleague by

using completely unacceptable and derogatory language. The Committee determined that respect and compassion are fundamental tenets of the social work profession, and that the Registrant was in breach of these.

With regard to Particulars 3, 4 and 5 of the Allegation, the Registrant's dishonesty in claiming reimbursement for over-claimed mileage, and mileage not permitted by the Trust, breached a fundamental tenet of the social work profession, namely, honesty, and brought the social work profession into disrepute. Health authorities must be able to place complete reliance on the integrity of social workers, and the Committee regarded the Registrant's dishonesty as undermining that confidence.

With regard to consideration of future risk, the Committee concluded that the Registrant's misconduct in relation to her use of inappropriate and derogatory language is capable of remediation. The Committee determined that this aspect of the Registrant's misconduct could be remediated if she demonstrated insight into her use of unacceptable language and its impact on her colleagues. The Registrant could take steps to refresh herself on the principles and values as set out in the Standards of Conduct and Practice for Social Workers. However, as the Committee had no evidence of remediation or insight, the Committee was very concerned about the risk of repetition. In the Registrant's submission of 13 November 2020, she referred to the Trust's investigation into these matters as a witch hunt, and claimed that she was a victim of bullying and harassment. She contested all the Particulars of the Allegation, and emphasised that she did not wish to be part of the social work profession and felt abused by the relentless process against her. In light of these circumstances, the Committee determined that a risk of repetition remained.

In relation to the Committee's findings at Particulars 3, 4 and 5 of the Allegation, the Committee accepted that dishonesty is difficult to remediate. The Committee had no evidence from the Registrant as regards insight into her dishonest behaviour and, therefore, considered there to be a continued risk of repetition in relation to this aspect of the misconduct.

The Committee considered the public interest, and concluded that the public interest is engaged in this matter. The Committee was of the view that a fully informed member of the public would be seriously concerned, in particular, by the way that the Registrant spoke about vulnerable service users, her colleague and the dishonest travel claims. Social workers are in a trusted position, which is a position of privilege. As a result, they are expected at all times to be professional, to maintain professional boundaries and refrain from making judgemental, derogatory, personal comments about vulnerable service users. In particular, there is an expectation that social workers treat their colleagues with respect, and carry out their professional duties in an honest and trustworthy manner. In all of the circumstances, the Committee determined that public confidence in the profession, and the Council as a regulator, would be undermined if a finding of impairment was not made. The Committee was concerned that if a finding of impairment was not made, other social workers may consider the Registrant's actions to be acceptable. The Committee took account of the evidence from the witnesses that the Registrant's language and behaviour was shocking and made them feel uncomfortable, and the Committee was in no doubt that this was unacceptable and disgraceful behaviour. The Registrant's pattern of dishonest

behaviour in over-claiming in her travel forms was in clear breach of the Standards of Conduct and Practice for Social Workers. Therefore, the Committee determined that a finding of impairment on public interest grounds was also required.

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

Sanction

In reaching its decision on sanction, the Committee considered the submissions of Mr Wilson on behalf of the Council, and had careful regard to all of the evidence in this case.

Mr Wilson directed the Committee to the various mitigating and aggravating factors, and the NISCC Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('Indicative Sanctions Guidance'). He submitted that imposing no sanction, a Warning or conditions of practice would not address the risk of repetition identified by the Committee or protect the public. He said that none of these sanctions would address the serious issue of the Registrant's dishonesty or prevent repetition of this. He suggested that, therefore, consideration should be given to suspension or removal. In particular, he referred the Committee to Paragraph 4.20 of the Guidance, which deals with factors that may be appropriate when dealing with suspension. He further referred the Committee to Paragraph 5 of the Guidance, and suggested that dishonesty is fundamentally incompatible with a registrant remaining on the Register. He submitted that the Registrant's serious misconduct required the imposition of a serious sanction.

The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Indicative Sanctions Guidance and reminded the Committee to consider the question of sanction in ascending order of severity, paying particular attention to the issue of proportionality. In considering the findings of dishonesty, she referred the Committee to the cases of Bolton v Law Society, Parkinson v Nursing and Midwifery Council, and Council for the Regulation for Healthcare Professionals v General Medical Council (Southall).

The Committee referred 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').

In deciding which sanction to impose, the Committee took 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 recognised that the purpose of sanction is not to be punitive, although sanction may have a punitive effect. The Committee first considered the mitigating and aggravating factors in this case, and found the mitigating factors to be:

- The Registrant has a good work history and good character;
- There have been no previous concerns raised by the Council;
- The Committee has no evidence of repetition of misconduct and noted that the Registrant, in her submission of 13 November 2020, indicated that she no longer wished to practise as a social worker;
- The Committee noted the considerable amount of time that has elapsed since the misconduct;
- The Committee noted that the Registrant has co-operated with the Council to some extent, and provided an explanation as to why she did not wish to engage with the regulatory process;
- In considering these circumstances surrounding the misconduct, the Committee noted the evidence that the LAC team work place was described as chaotic and stressful; and
- There was no evidence to show that the Registrant's behaviour caused direct harm to service users.

The Committee considered the aggravating factors to be:

- The Registrant's dishonesty;
- The Registrant's misconduct represented an abuse of trust;
- The Registrant's conduct was premeditated;
- The Registrant did not express insight or regret into her actions;
- The Registrant's misconduct had the potential to place service users at risk of harm, especially if they had been aware of the language she used when referring to them. The Registrant's misconduct represented a serious disregard for the Council's Standards of Conduct and Practice for Social Workers;
- The Registrant's misconduct was persistent and repeated and, in respect of her dishonesty, took place over a period of two and a half years; and
- The Registrant's misconduct was committed at work.

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 Guidance, bearing in mind that the decision on sanction is one for its own independent judgement.

Having balanced the aggravating and mitigating factors, the Committee considered that the aggravating factors far outweighed the mitigating factors, and proceeded to consider the appropriate sanction to apply in this case.

No Sanction - the Committee had no hesitation in concluding that it would neither be appropriate nor proportionate if no sanction were imposed in this case. In the view of the Committee, if no sanction was imposed this would not mark the seriousness of the misconduct, meet the public interest in this matter nor address the concerns identified.

Warning - the Committee considered the issue of a Warning in this case. The Committee considered that the Registrant's serious misconduct demonstrated a serious disregard for the Standards of Conduct and Practice for Social Workers. The Registrant's impairment of fitness to practise was not at the lower end of the spectrum, particularly in relation to her dishonesty. In the circumstances of this case, the Committee would not be confident that this sanction would provide adequate public protection as far as the Registrant's suitability was concerned, bearing in mind that a Warning would entitle the Registrant to work unrestricted as a social worker. The Committee noted that there was no evidence before it as regards the Registrant's remorse or insight into her behaviour and its impact on her colleagues and service users. Therefore, a Warning would not be appropriate or proportionate to the serious misconduct identified 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 not demonstrated any insight into her serious misconduct, nor expressed a desire to remediate her behaviour. The Registrant has indicated that she no longer wishes to be a registered social worker, and has requested that her name be removed from the Register. Therefore, the Committee 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 worker. In these circumstances, the Committee could not formulate workable, enforceable, or verifiable conditions which would address the Registrant's serious misconduct and adequately protect the public.

Suspension – the Committee next considered a Suspension Order. In considering this, the Committee took into account the Guidance at Paragraph 4.19 and 4.20 as follows:

4.19 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.

4.20 *Suspension may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):*

- *serious incident of misconduct where suitability to be registered is impaired and where a lesser sanction is not sufficient, but removal is not warranted;*
- *behaviour is not fundamentally incompatible with continuing to be a registered social care worker in the long term;*
- *interests of service users and the public are sufficiently protected by suspension;*
- *no real risk of repeating the behaviour;*
- *no evidence of harmful deep-seated personality or attitudinal problems;*
- *no evidence of a repetition of the behaviour since the incident/s;*
- *insight;*
- *where the evidence demonstrates that the Registrant will be able to resolve or remedy the cause of the misconduct during the period of suspension.*

The Committee considered that the Registrant's misconduct evidenced behaviour that was fundamentally incompatible with registration as a social worker. The Registrant's misconduct, in relation to both her use of language and her dishonest travel claims, took place over a longer period of time. The Committee considered that this misconduct indicated an attitudinal problem on the part of the Registrant. Whilst the Committee identified the Registrant's use of language as being remediable, it considered dishonesty hard to remediate. The Committee determined that a Suspension Order would not address the risk of repetition as identified above, or the public interest. The Committee had no evidence of insight, remorse or remediation from the Registrant, nor had it any information to indicate that the Registrant is unlikely to repeat her behaviour in the future. The Committee considered that the public would view the Registrant's behaviour as falling far below what would be expected of a registered social worker. In all of the circumstances, the Committee concluded that a Suspension Order would not be sufficient to mark the serious and unacceptable nature of the Registrant's misconduct.

Removal – The Committee next considered a Removal Order. In considering this, the Committee took into account the Guidance as follows:

4.26 *This is the most serious sanction which a Committee can impose. A Removal Order is likely to be appropriate when the Registrant's behaviour is fundamentally incompatible with being a social care worker. Removal should be used where there is no other way to protect the public, for example, where there is a lack of insight, continuing problems and a pattern of unacceptable behaviour or denial, where there is no evidence that there is likely to be satisfactory remediation and where confidence in the social care profession would be undermined by allowing the Registrant to remain on the Register.*

4.27 *Removal may be appropriate where some or all of the following factors are apparent (this list is not exhaustive):*

- *doing serious harm to service users either deliberately or through gross neglect and particularly where there is a continuing risk to service users;*
- *abuse of position/trust (particularly involving vulnerable people who use services) or the violation of the rights of people who use services, eg sexual abuse;*
- *dishonesty (especially where persistent or covered up);*
- *persistent lack of insight into seriousness of actions or consequences;*
- *blatant disregard for the system of registration which is designed to safeguard the interests of service users, the public and the reputation and standards of the social care profession;*
- *serious departure from the relevant professional standards set out in the Standards of Conduct and Practice for Social Care Workers.*

5.10 *The Standards state that social care workers must be honest and trustworthy (Standard of Conduct 2.1) and must recognise and use responsibly the power that comes from their work with people who use services and their carers (Standard of Conduct 3.7).*

5.11 *Dishonesty is particularly serious because it may undermine trust in social services. Examples could include cases of theft, fraud or embezzlement, lying to a manager about whether a work task has been undertaken, improperly amending records relating to people who use services, falsifying evidence or submitting or providing false references and information on a job application. The public must be able to place complete reliance on the integrity of Registrants.*

5.13 *Those who use services, employers, colleagues and others have a right to rely on the professional integrity of social care workers. Sometimes, life-changing choices about the options available to someone who uses services and significant financial decisions are made on the basis not only of the skill of Registrants but also of their honesty. Dishonesty, particularly when associated with professional practice, is so damaging to a Registrant's suitability and to public confidence in social care services that removal may be considered to be the appropriate outcome.*

The Committee concluded that given the seriousness of the Registrant's misconduct and her lack of insight and remediation of her failings, a Removal Order was the only sufficient sanction. The Committee determined that the Registrant's behaviour was fundamentally incompatible with being a registered social worker. The Registrant's misconduct was persistent, repetitive and took place in her work place. The Registrant failed to attend the hearing, demonstrate insight and remorse or assure the Committee that there would be no repetition of her misconduct. The Committee found the Registrant's dishonest behaviour to be serious and at the higher end of the spectrum. The Committee considered that the Registrant abused her position as a social worker and used derogatory and inappropriate language about service users, for whom she was entrusted with personal

information. Although no harm was caused to service users, the Registrant failed to refer to service users with dignity and respect. In all of the circumstances, the Committee concluded that a Removal Order was 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 misconduct. The Committee considered the potential 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.

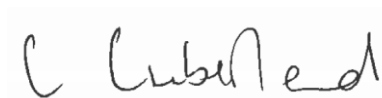
You should note that the Fitness to Practise Committee's decision takes effect from the date upon which it was made.

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

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. 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. This does not affect your right to appeal the Committee's decision to the Care Tribunal.

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30 September 2021

Regulatory Committee Manager

Date