



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

Name: Monica Dodu

SCR No: 6042698

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **24 January 2022**, 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 convictions and misconduct

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

Particulars of the Allegation As Served:

That, as set out below, whilst being registered as a social care worker under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you:	
A	Were found guilty on 29 June 2012 at Iasi Tribunal, Romania, in respect of an offence of trafficking persons for the purpose of exploitation.
B.	Failed to disclose the fact that you had been convicted of the offence set out at A above when applying for registration with the Northern Ireland Social Care Council as a social care worker, the application form for registration having been received on or about 25 April 2018.
C.	Were convicted of the following offences at the Magistrates' Court on 28 June 2019: 1. On the 25 th day of January 2019, stole a quantity of unknown items of the approximate value of £100.00 belonging to Boots, Sprucefield, contrary to Section 1 of the Theft Act (Northern Ireland) 1969
D.	Failed to disclose to the Northern Ireland Social Care Council, as soon as reasonably practicable, that you were convicted of the offence as set out above at C1.

E.	<p>Were convicted of the following offences at the Magistrates' Court on 25 November 2020:</p> <ol style="list-style-type: none"> 1. On the 6th day of April 2020, stole groceries to the value of £6.20 or thereabouts belonging to Tesco, contrary to Section 1 of the Theft Act (Northern Ireland) 1969. 2. On the 28th day of April 2020, stole groceries to the value of £44.22 or thereabouts belonging to Tesco, contrary to Section 1 of the Theft Act (Northern Ireland) 1969.
F.	Failed to disclose to the Northern Ireland Social Care Council, as soon as reasonably practicable, that you were convicted of the offence as set out above at E1.
G.	Failed to disclose to the Northern Ireland Social Care Council, as soon as reasonably practicable, that you were convicted of the offence as set out above at E2.
H.	<p>Failed to disclose the fact that you had been found guilty of the offence at A above to Macklin Group in applications for employment, for roles that required disclosure of your criminal record, as these roles required registration with the Northern Ireland Social Care Council as a social care worker:</p> <ol style="list-style-type: none"> 1. The application dated 08 September 2017 2. The application dated 10 November 2017 3. An undated electronic application for the post of Senior Care Assistant (Nights) for which the closing date was 08 August 2019
I.	Failed to disclose the fact that you had been found guilty of the offences at A and C above to Filo International, in an application for employment for a role that required disclosure of your criminal record as this role required registration with the Northern Ireland Social Care Council as a social care worker, in your application dated 27 September 2019.
And your actions show that your fitness to practise is impaired by reason of your convictions as set out above at A, C and E.	
And your actions show that your fitness to practise is impaired by reason of your misconduct as set out above at B, D, F, G, H and I.	

Procedure:

The hearing was held under the fitness to practise procedure.

Preliminary Matters

Service

Mr Gilmore told the Committee that the Notice of Hearing and hearing bundle were sent to the Registrant's registered email address on 14 December 2021 and that proof of delivery was received on the same date. The Committee Clerk telephoned and left a voicemail for the Registrant on 18 January 2022, asking her to call back and confirm if she would be attending the remote Fitness to Practise Hearing on 24 January 2022. The

Committee Clerk issued an email on 18 January 2022, to the Registrant's registered email address and explained that a number of attempts had been made to contact her and asked her to contact the Council to confirm if she would be attending the hearing. An amended hearing bundle was issued to the Registrant on 19 January 2022 and the covering email urged the Registrant to contact the Council. Mr Gilmore advised that the Registrant did not respond to any communication from the Council in relation to today's hearing.

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 Committee's power to proceed in her absence.

The Committee, in all of the circumstances of the case, was satisfied that the Notice of Hearing had 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 Gilmore 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 had voluntarily waived 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 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 advised the Committee to avoid reaching any improper conclusion about the Registrant's absence, and not to accept it as an admission in any way.

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. It noted that:

- The Registrant did not respond to any communication from the Council;
- The Registrant had not made an application to adjourn the hearing;

- There was no reason to suppose that adjourning the hearing would secure her attendance at a future date;
- The Particulars of the Allegation related to events that occurred in 2012, 2019 and 2020; and
- There was a strong public interest in the case proceeding as listed.

The Committee accepted that there was some disadvantage to the Registrant in proceeding in her absence, but determined that the limited disadvantage was the consequence of the Registrant's decision to absent herself from the hearing, waive her right to attend or to be represented.

In these circumstances, the Committee decided that it was fair, appropriate and proportionate to proceed in the absence of the Registrant.

Application to Admit Hearing Bundle

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

Application to Amend the Particulars of the Allegation

The Committee heard an application from Mr Gilmore to amend the Particulars of the Allegation. The proposed amendment was to remove the Particulars which related to the failure to disclose the more recent criminal convictions to the Council, as set out at Particulars D, F and G.

The Committee accepted the advice of the Legal Adviser who directed the Committee to Paragraph 18 of Schedule 2 of the Rules.

The Committee was of the view that such an amendment, as applied for, was in the interest of justice and the requirements of a fair hearing. The Committee was satisfied that there would be no prejudice to the Registrant by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity of the issues before the Committee.

Amended Particulars of the Allegation

That, as set out below, whilst being registered as a social care worker under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you:	
A	Were found guilty on 29 June 2012 at Iasi Tribunal, Romania, in respect of an offence of trafficking persons for the purpose of exploitation.
B.	Failed to disclose the fact that you had been convicted of the offence set out at A above when applying for registration with the Northern Ireland Social Care Council as a social care worker, the application form for registration having been received on or about 25 April 2018.
C.	Were convicted of the following offences at the Magistrates' Court on 28 June 2019: <ol style="list-style-type: none"> 2. On the 25th day of January 2019, stole a quantity of unknown items of the approximate value of £100.00 belonging to Boots, Sprucefield, contrary to Section 1 of the Theft Act (Northern Ireland) 1969

D.	Withdrawn.
E.	<p>Were convicted of the following offences at the Magistrates' Court on 25 November 2020:</p> <ol style="list-style-type: none"> 3. On the 6th day of April 2020, stole groceries to the value of £6.20 or thereabouts belonging to Tesco, contrary to Section 1 of the Theft Act (Northern Ireland) 1969. 4. On the 28th day of April 2020, stole groceries to the value of £44.22 or thereabouts belonging to Tesco, contrary to Section 1 of the Theft Act (Northern Ireland) 1969.
F.	Withdrawn.
G.	Withdrawn.
H.	<p>Failed to disclose the fact that you had been found guilty of the offence at A above to Macklin Group in applications for employment, for roles that required disclosure of your criminal record, as these roles required registration with the Northern Ireland Social Care Council as a social care worker:</p> <ol style="list-style-type: none"> 4. The application dated 08 September 2017 5. The application dated 10 November 2017 6. An undated electronic application for the post of Senior Care Assistant (Nights) for which the closing date was 08 August 2019
I.	<p>Failed to disclose the fact that you had been found guilty of the offences at A and C above to Filo International, in an application for employment for a role that required disclosure of your criminal record as this role required registration with the Northern Ireland Social Care Council as a social care worker, in your application dated 27 September 2019.</p>
<p>And your actions show that your fitness to practise is impaired by reason of your convictions as set out above at A, C and E.</p>	
<p>And your actions show that your fitness to practise is impaired by reason of your misconduct as set out above at B, H and I.</p>	

Declaration of Conflicts of Interest

The Chair of the Committee confirmed with all Committee Members that there were no conflicts of interest.

Background

Mr Gilmore provided the Committee with a background to the case. He told the Committee that the Registrant is registered on Part 2 of the Social Care Register. He said that the Council received two Employer Referral Forms ('ERF') in relation to the Registrant, dated 31 December 2019 and on 03 January 2020, along with Enhanced Disclosure Certificates. These disclosed a criminal conviction, imposed in Romania, against the Registrant in 2012, for trafficking persons for the purpose of exploitation. The Registrant had a second conviction in 2019, at Lisburn Magistrates' Court, in respect of theft.

The Registrant failed to declare these convictions on a number of job applications, her application for registration with the Social Care Council and in an application to Filo Heartbeat International Recruitment Agency ('Filo Heartbeat International').

Mr Gilmore said that during its investigation, the Council contacted ACRO Criminal Records Office ('ACRO') to seek the Certificate of Conviction in regard to the Romanian conviction. The Council was informed by ACRO that the Romanian conviction had been "weeded" on the relevant database and as a result it was not possible for the Council to obtain a Certificate of Conviction. Mr Gilmore said that the Council sought clarification from ACRO in regard to the definition of "weeding" and this was provided.

Mr Gilmore said that the Council also received a PSNI disclosure dated 08 July 2020, which informed the Council that the Registrant was being investigated in relation to two criminal allegations of theft from Tesco, on 06 April 2020 and 28 April 2020. The letter also confirmed that the Registrant has:

"the subject has a history of thefts, which establishes a clear pattern of behaviour, and has received discretionary disposals for two previous thefts.

Both of the alleged thefts took place at her employment, a matter of just weeks apart, albeit in a retail setting.

The subject is also employed as a care worker for vulnerable adults, and I am of the view there is a transferable risk of theft in this setting".

Evidence and Submission on the Facts

Mr Gilmore directed the Committee to the evidence contained within the hearing bundle, and submitted that the Council sought to rely on this evidence to prove the case.

Mr Gilmore submitted that whilst a certificate is conclusive proof of the facts or conviction so found, a Certificate of Conviction is not necessary. Mr Gilmore told the Committee that whilst there are certificates for three of the convictions referred to in the Particulars of the Allegation, the Council does not have a certificate for the Romanian conviction. Mr Gilmore submitted that the evidence shows on the balance of probabilities that the Registrant was convicted of this offence and directed the Committee to:

- the Access NI Disclosure dated 18 October 2019 which documents the conviction;
- the telephone attendance note of a call between ACRO and Jenny Hall, Fitness to Practice Officer, which documents that the Council were told that the conviction was visible but may have been weeded by the Romanian authorities; and
- the notes from the employer's investigation meeting with the Registrant which records that the Registrant accepted that she had a conviction in Romania for this offence.

Mr Gilmore submitted that if the Committee accept that the conviction for the offence of trafficking persons for exploitation exists, then it must follow that the Council have proven Particular B. Mr Gilmore directed the

Committee to the Registrant's application to the Council for registration and the failure to disclose the offence within the application.

The Committee heard that the Council relies on the Certificates of Conviction to prove the theft offence referred to at Particular C and also the offences at Particular E1 and E2.

Mr Gilmore directed the Committee to the Registrant's application for posts with the Macklin Group, in support of Particular H and the application to Filo Heartbeat International, dated 27 September 2019, in support of Particular I.

Mr Gilmore accepted that the onus is on the Council to prove the case and submitted that in the current circumstances the Particulars of the Allegation have been proven by the Council.

Finding of Facts

The Legal Adviser reminded the Committee that the burden of proof rests with the Council to prove its case. She told that 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 in the absence of any other evidence, the Committee was entitled to rely on the Certificates of Conviction to establish conclusively that the Registrant was convicted of the offences as set out. She also advised the Committee that the certificates could be relied upon to establish the facts underlying the convictions.

The Legal Adviser reminded the Committee that a Certificate of Conviction is not required to prove a conviction and as in this case where no certificate is available, the Committee must exercise its own independent skill and judgement to assess whether it is more likely than not that the conviction has been proved. She reminded the Committee that the standard of proof is the civil standard and that the Committee must conduct a careful assessment of all of the evidence and reach its own findings and conclusions and give reasons for decisions reached.

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 was more likely than not to have occurred.

Particular of the Allegation A

Were found guilty on 29 June 2012 at Iasi Tribunal, Romania, in respect of an offence of trafficking persons for the purpose of exploitation.

The Committee determined that the facts of this Particular have been found proved. In reaching this decision, the

Committee had careful regard to all of the documentary evidence and, in particular the Access NI Disclosure, dated 18 October 2019. This document records a conviction on 29 June 2012 at Iasi Tribunal Romania for trafficking persons for purpose of exploitation. The Committee determined that this was an official document and could be relied on as evidence of the conviction. The Committee had no evidence that the Registrant had disputed or appealed the Access NI Disclosure and was satisfied that she would have received a copy of the document.

The Committee also relied on the telephone attendance note between ACRO and Jenny Hall, Fitness to Practise Officer, which recorded that the "*conviction is visible but may have been "weeded" on the Romanian database*".

The Committee also noted that during the investigation meeting with her employer, dated 02 January 2019, the Registrant was asked if she had any criminal convictions in Romania. She is recorded as having responded "Yes, in Romania, it is finished". The notes of the meeting go on to record that she explained that she was young and that she was arrested because she was married to someone who was arrested for people trafficking. The notes record that the Registrant was asked if the police presented evidence that she was involved and found guilty and she accepted this.

The Committee therefore found that the facts of this Particular have been proved on the balance of probabilities, although a Certificate of Conviction is not available.

Particular of the Allegation B

Failed to disclose the fact that you had been convicted of the offence set out at A above when applying for registration with the Northern Ireland Social Care Council as a social care worker, the application form for registration having been received on or about 25 April 2018.

The Committee determined that the facts of this Particular have been found proved. In reaching this decision, the Committee relied on the application from the Registrant to the Council dated 25 April 2018. The Committee noted that the Registrant had been asked if she had been convicted of a criminal offence in the UK or any other country and answered no. The Registrant did not declare the conviction for people trafficking from the Iasi Tribunal in Romania in 2012. The Committee noted that the Registrant had signed the declaration and had been asked to confirm that all of the information provided in the form was correct.

The Committee therefore found that the facts of this Particular have been proved on the balance of probabilities.

Particular of the Allegation C

Were convicted of the following offences at the Magistrates' Court on 28 June 2019:

On the 25th day of January 2019, stole a quantity of unknown items of the approximate value of £100.00 belonging to Boots, Sprucefield, contrary to Section 1 of the Theft Act (Northern Ireland) 1969

The Committee determined the facts of this Particular have been found proved. The Committee noted the facts

contained in the Certificate of Conviction dated 28 June 2019. The Committee concluded that the Certificate of Conviction is conclusive proof of the conviction and the underlying facts. The Committee, therefore found the facts proved.

Particular of the Allegation D – Withdrawn.

Particular of the Allegation E

Were convicted of the following offences at the Magistrates' Court on 25 November 2020:

- 1. On the 6th day of April 2020, stole groceries to the value of £6.20 or thereabouts belonging to Tesco, contrary to Section 1 of the Theft Act (Northern Ireland) 1969.**
- 2. On the 28th day of April 2020, stole groceries to the value of £44.22 or thereabouts belonging to Tesco, contrary to Section 1 of the Theft Act (Northern Ireland) 1969.**

The Committee determined the facts of this Particular have been found proved. The Committee noted the facts contained in the Certificate of Convictions dated 25 November 2020. The Committee concluded that the Certificate of Convictions were conclusive proof of the convictions and the underlying facts. The Committee, therefore found the facts proved.

Particular of the Allegation F – Withdrawn.

Particular of the Allegation G – Withdrawn.

Particular of the Allegation H

Failed to disclose the fact that you had been found guilty of the offence at A above to Macklin Group in applications for employment, for roles that required disclosure of your criminal record, as these roles required registration with the Northern Ireland Social Care Council as a social care worker:

- 1. The application dated 08 September 2017**
- 2. The application dated 10 November 2017**
- 3. An undated electronic application for the post of Senior Care Assistant (Nights) for which the closing date was 08 August 2019**

The Committee determined that the facts of this Particular have been found proved.

The Committee paid careful regard to the application form dated 08 September 2017. The Committee was satisfied that as the Registrant had circled the words "care assistant", this was an application for a role which required disclosure of her criminal record. The Committee noted that the Registrant was asked if she had ever been convicted of any criminal offence or received a caution, reprimand or warning (pending or spent) and answered no. The form does not contain any evidence that the Registrant declared her Romanian conviction.

The Committee considered the application form, dated 10 November 2017, for a night carer vacancy. The Registrant was asked if she had ever been convicted of any criminal offence or received a caution, reprimand or warning (pending or spent) and answered no. The form does not contain any evidence that the Registrant declared her Romanian conviction.

The Committee next considered an updated electronic application for the post of Senior Care Assistant (Nights). Although this application is not dated, the Committee noted it was for a post which closed on 08 August 2019.

The Registrant was asked to complete a Criminal Records Declaration and the form records that she stated she had never been convicted of any criminal offence. The form does not contain any evidence that the Registrant declared her conviction in Romania or her recent conviction in June 2019 for a theft offence at Lisburn Magistrates' Court.

The Committee, therefore found the facts proved

Particular of the Allegation I

Failed to disclose the fact that you had been found guilty of the offences at A and C above to Filo International, in an application for employment for a role that required disclosure of your criminal record as this role required registration with the Northern Ireland Social Care Council as a social care worker, in your application dated 27 September 2019.

The Committee determined that the facts of this Particular have been found proved.

The Committee carefully considered the application form contained within the bundle and noted that the Registrant had stated that she had never been convicted of a criminal offence. The form does not contain any evidence that the Registrant declared her conviction in Romania or her recent conviction in June 2019 for a theft offence at Lisburn Magistrates' Court. The Committee determined that the facts of this Particular have been found proved.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise was impaired. The Committee heard submissions from Mr Gilmore. Mr Gilmore submitted that the Registrant's actions which led to the convictions and her failure to disclose her convictions calls into question her ability to work in social care services, and to remain on the Register without restriction, or to be registered at all.

Mr Gilmore submitted that the reasons for impairment are clearly set out in the facts found proved. There is clear evidence of the three local convictions and satisfactory evidence of the conviction in Romania. Mr Gilmore told the Committee that misconduct arises from the deficiencies in the application forms and failure on the part of the Registrant to disclose her convictions.

Mr Gilmore directed the Committee to the Standards of Conduct for Social Care Workers and stated that the Council's position was that the Registrant had demonstrated a failure to be honest and trustworthy, in breach of Standard 2, 2:1. Mr Gilmore submitted that the offences as set out in the Certificates of Conviction for theft contain an element of dishonesty. He submitted that her actions were in breach of Standard 5, 5:8 which is relevant whether her actions take place inside or outside of the workplace. He also referred the Committee to Standard 6, 6:6 which requires a social care worker to inform the Council or their employer if their fitness to practise is called into question in any way whether by reason of ill health or a criminal conviction. He submitted that the Registrant's failure to disclose her convictions is in breach of this standard.

In terms of remediation, Mr Gilmore accepted that the Registrant did plead guilty to the theft offences but stated that in terms of insight there had been no engagement with the Council and a lack of insight in relation to these

proceedings. However, he submitted that there is no actual evidence that she has remediated her impairment and that past dishonesty is a difficult issue to fully remediate, especially as in this case where the dishonesty was deliberate, there was a pattern of dishonesty and some of the offences occurred in the course of her employment.

With regard to the risk of repetition, Mr Gilmore submitted that if there is a pattern which occurred outside of social care, there is a risk of repetition which could occur in social care services. Mr Gilmore submitted that trust and honesty are essential aspects of being a social care worker.

Mr Gilmore submitted that the public would have a genuine concern and an objective member of the public would consider these offences evidence of impairment of her fitness to practise. In order to maintain public confidence in social care services a finding of impairment should be made. Mr Gilmore told the Committee that this type of behaviour should be clearly marked as inappropriate and requires a finding of impaired fitness to practise.

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 question of impairment. She reminded the Committee that it was being asked to determine whether the Registrant's fitness to practise is impaired because of her conviction and misconduct. She referred the Committee to Paragraph 24 of Schedule 2 of the Rules, and the requirements as set out in the case law. In particular, the Legal Adviser referred the Committee to GMC v Cohen and to the formulation provided by Dame Janet Smith in her 5th Report to the Shipman Inquiry (cited with approval by Cox J in CHRE v NMC & Grant).

The Committee considered whether the Registrant's fitness to practise was impaired by reason of her conviction and misconduct 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 was satisfied as to the reason of impairment both in light of the convictions and the misconduct. The Committee was in no doubt that the Registrant's failure to disclose her criminal convictions fell short of the standards of behaviour which would be considered proper in the circumstances.

The Committee had regard to the Standards of Conduct and Practice for Social Care Workers. The Committee was 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;

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

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:

6.6 Informing NISCC and any employers you work for at the first reasonable opportunity if your fitness to practise has been called into question. This includes ill-health that affects your ability to practise, criminal convictions, disciplinary proceedings and findings of other regulatory bodies or organisations;

The Committee was of the view that the misconduct caused by the failure to disclose criminal convictions could be remediated. Whilst the Committee was of the view that dishonesty can be difficult to remediate, the Committee concluded that the events which led to the convictions for theft were capable of remediation. The Committee carefully considered whether the offence of people trafficking could ever be remediated and determined that, in very limited circumstances, it could be remediated. However, the Committee had no evidence that any of these issues have been remediated by the Registrant. The Committee had no evidence of the Registrant's remorse or insight into her actions or regret for how she had acted in the past, or evidence of how she would act differently in the future.

The Committee determined that the Registrant has not only been convicted of criminal offences but demonstrated a lack of insight into the importance of the system of registration and declaring any previous criminal convictions. The Committee was of the view that there was a risk she would behave in the same way in the future. The Committee was concerned that the Registrant, by reason of her convictions and misconduct, would be liable in the future to place service users at unwarranted risk of harm. The Committee noted that the Registrant had worked with vulnerable service users in a very trustworthy position and the pattern of theft offences could place vulnerable service users at risk of financial harm.

The Committee also concluded that a finding of current impairment of fitness to practise was also necessary in the public interest. The nature of the Registrant's convictions means that the public interest is engaged in this case. The Committee concluded that public confidence in social care services, and the Council as its regulator, 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 and misconduct.

Sanction

The Committee heard a submission from Mr Gilmore in relation to the question of sanction. Mr Gilmore confirmed that the Registrant had no previous regulatory concerns raised about her. He also set out the aggravating and mitigating factors which the Committee might consider in addressing the appropriate sanction to impose. Mr Gilmore submitted that, ultimately, the appropriate sanction was a matter for the Committee in the exercise of its independent judgement. Mr Gilmore submitted that in the view of the Council the Registrant's conduct has been fundamentally incompatible with being registered both in terms of the 2012 conviction, the series of shop lifting offences and a lack of disclosure in relation to those matters.

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 ('the Guidance'), 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 provided 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');
- (f) revoke any Interim Order imposed by the Preliminary Proceedings Committee.

She further reminded the Committee that in deciding which sanction to impose, the Committee should take into account the following factors as set out in Paragraph 26 (2) of Schedule 2 of the Rules:

- (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 considered the following to be mitigating factors:

- The Registrant, in her email to the Council, dated 03 July 2020, stated that her English was not very good and she was assisted to complete the form. She stated that she thought the question about her previous convictions only related to the country where she was, not the country where she had come from;
- She has no previous disciplinary record with the Council;
- The offences occurred outside of a social care setting;
- The Registrant has provided three supportive references. However, the Committee could not be certain that those providing the references were aware that they were going to be placed before a Committee at a Fitness to Practise hearing; and
- The Registrant pleaded guilty at court to the theft offences and has made admissions about her convictions.

The Committee considered the following to be aggravating factors:

- For a member of a caring, regulated profession a conviction for people trafficking for the purpose of exploitation of vulnerable people is exceptionally serious;
- The Registrant demonstrated no insight;
- The Registrant had no genuine expression of regret;
- The theft offences were dishonest;
- The theft in her workplace was an abuse of trust;
- The failure to disclose the convictions, was in the view of the Committee, an attempt to conceal her wrongdoing;
- The pattern of her behaviour causes a risk to service users;
- The Registrant has demonstrated a serious disregard for the Council's Standards of Conduct and Practice;
- This was not an isolated incident; and
- The more recent theft offences occurred against a background of a previous conviction from 2012 and since the Registrant was on the Social Care Register

Having balanced the aggravating and mitigating factors, and taking into account the interests of public protection and the public interest, the Committee considered that a sanction was appropriate, and proceeded to consider which sanction to apply in this case.

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. It bore in mind that the imposition of a Warning for a period of time would not protect the public from the risk of repetition, and consequent risk of serious harm to service users and members of the public. The Committee considered that the Registrant's convictions and misconduct 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. The circumstances were not such that the Committee could be confident that a Warning would provide adequate public protection as far as the Registrant's suitability to work in social care is concerned, bearing in mind that a Warning would entitle the Registrant to work as a social care worker on an unrestricted basis.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Registrant's convictions and misconduct involved a pattern of theft offences and a conviction for people trafficking. She had failed to disclose her convictions. Her actions breached a fundamental tenet of the social care workforce, and had brought the social care services into disrepute. The Committee concluded that a Conditions of Practice Order would not be 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 misconduct and adequately protect the public.

Suspension – the Committee next considered a Suspension Order. The Committee noted that it had made findings at the fact and impairment stages of the proceedings which were of a very serious nature.

The Committee carefully considered the issue of proportionality and whether suspension would address the concerns it had identified. The Committee noted para 4.19 of the Indicative Sanctions Guidance which states:

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.

The Committee considered that the Registrant's convictions and misconduct evidenced behaviour that was fundamentally incompatible with continued registration as a social care worker. The Registrant's actions demonstrated a complete disregard for the regulatory process and raised in the Committee's mind that the Registrant had a deep-seated attitudinal problem which was incompatible with continued registration. The Committee determined that a Suspension Order would not address the risk of repetition as identified above. The Committee had no evidence of insight and no evidence of remediation from the Registrant. In all of the circumstances, the Committee concluded that a Suspension Order would be insufficient to mark the seriousness of the Registrant's actions, and would fail to uphold the public interest.

Removal – the Committee then considered a Removal Order. In considering this sanction, the Committee took into account the Guidance at Paragraphs 4.26 – 4.28. In particular the Committee paid careful regard to Paragraph 4.26 which states:

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.

The Committee considered that the Registrant's actions constituted a serious departure from the professional standards as set out in the Standards of Conduct and Practice for Social Care Workers. Her actions brought the social care workforce into disrepute. The Registrant's actions were fundamentally incompatible with continued registration. In all of the circumstances, the Committee concluded that a Removal Order was the only sanction available to it that would adequately protect the public and uphold the public interest. The Committee considered that public confidence in social care services, and in the Council as its regulator, would be undermined by the imposition of a lesser sanction.

The Committee considered the potential adverse impact that the making of a Removal Order could have on the Registrant, but decided that her interests were outweighed by the public interest and the need to protect the public. The Committee considered a Removal Order to be 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.

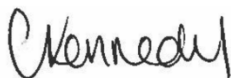
You are prohibited from working as a social care worker in any of the following positions:

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.



Committee Clerk

28 January 2022

Date