

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

Name: Rita Gannon

SCR No: 7010657

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **14 February 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;

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

Particulars of the Allegation:

That, on 15 February 2021, as set out below, whilst being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you were convicted of the following offences at the Magistrates Court;	
1.	Defendant on various dates between the 10 July 2020 and the 16 July 2020 stole CASH to the value of £655.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.
2.	Defendant on dates between the 8 day of December 2019 and the 12 day of July 2020 stole CASH to the value of £10.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.
3.	Defendant on dates between the 1 July 2020 and the 16 July 2020 stole CASH to the value of £160.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.
4.	Defendant on the date 06/07/2020 stole CASH to the value of £180.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.
And your actions as set out above show that your fitness to practise is impaired by reason of your convictions.	

Procedure:

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Registrant was neither present nor represented. The Council was represented by Mr Peter Carson, Solicitor, Directorate of Legal Services.

Service

The Notice of Hearing and hearing bundle were sent to the Registrant's registered email address on 23 December 2021. A proof of delivery receipt was received on the same date.

The Committee received legal advice from the Legal Adviser, and he 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, in all of the circumstances of the case, was satisfied that the Notice of Hearing had been served in accordance with Rule 3 and Paragraph 5 of Schedule 2 of the Rules.

Proceeding in the Absence of the Registrant

Mr Carson made an application to proceed in the absence of the Registrant under Paragraph 15 of Schedule 2 of the Rules, and submitted that the Committee should hear and determine the case in her absence. He invited the Committee to conclude that the Registrant's absence was a voluntary waiver of her right to attend. He outlined to the Committee that, on 31 January 2022, the Committee Clerk had attempted to call the Registrant and left a voicemail message asking her to confirm if she would be in attendance at the hearing. There had been no contact from the Registrant in response to the email or the telephone call. In light of this information, Mr Carson submitted that, in all of the circumstances, it was fair to proceed with the hearing in her absence. He further submitted that proceeding in the Registrant's absence was in the public interest, and also was justified to ensure the timely disposal of the hearing.

The Committee was mindful that the discretion to proceed in the absence of the Registrant should only be exercised with the utmost care and caution. In considering the application, the Committee sought to satisfy itself that all reasonable efforts had been made to notify the Registrant of the hearing, and accepted the advice of the Legal Adviser. He referred the Committee to the cases of R v Jones and GMC v Adeogba. He 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. He 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 noted the attempted telephone call by the Committee Clerk to the Registrant on 31 January 2022 and the lack of response received. There was no reason to suppose that an adjournment of the hearing would secure the Registrant's attendance at a later date. Accordingly, the Committee was satisfied that the Registrant, with notice of the hearing, had voluntarily waived her right to attend. In addition, the Committee noted the serious

nature of the allegations faced by the Registrant and concluded that the public interest was strongly engaged in this case.

For these reasons, the Committee considered that it was fair and appropriate to proceed in the absence of the Registrant.

Application to Admit Hearing Bundle

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

Declarations of Interest

The Chair of the Committee advised that all Committee Members did not have any conflict of interest with the case.

Background

At the material time, the Registrant was employed as a care worker by Conard Care until 16 July 2020 when she was suspended from her employment. She was responsible for providing care for approximately 20 service users within a specified geographical area, all of whom would be deemed as vulnerable, elderly adults.

The Council received a referral from the Registrant's employer on 21 July 2020. The referral was contained in an Employer Referral Form ('ERF') which stated as follows:

"A member of our care team [redacted] reported to their care co-ordinator on Monday 13th July 2020 that a service user [redacted] said she had rang the on call service on Saturday 11th July 2020...[the Service User] alleged that on 11th July 2020 at the tea call which is delivered about 16.30 / 17pm that she had a considerable sum in her purse in her handbag in the kitchen...[the Service User] alleged that on as above £160.00 in cash had been taken from her handbag which had been under the kitchen table...[the Service User] alleged that there had been two carers attending her...as above."

Following an investigation, the Registrant was arrested on 16 July 2020 and interviewed about the initial referral contained in the ERF along with two other thefts from other vulnerable adults, who similarly alleged that the Registrant had stolen money from them when she was at their home addresses in the course of her duties as a social care worker. She was interviewed on three occasions on this date. In the first interview, she made no admissions. In subsequent interviews on that date, the Registrant admitted stealing £180.00 from a service user on 16 July 2020, £160.00 from another service user on 11 July 2020 and £655.00 on a date between 10 July and 16 July 2020. The Registrant was bailed pending investigation and was further arrested on 10 September 2020 and re-interviewed on that date. She admitted a further theft during interview.

In total, at the material time, the Registrant made admissions to theft of money from four service users for whom she had responsibility and visited in the course of her duties.

The Registrant was subsequently prosecuted and convicted of four counts of theft and the certificates of conviction were contained in the hearing bundle.

Evidence

Mr Carson directed the Committee to the evidence contained within the hearing bundle and in particular, the certificates of conviction. He submitted that the Council sought to rely on the certificates as proof that the Registrant had been convicted of the offences that were set out in the Allegation.

Finding of Facts

The Committee took into account the submissions made on behalf of the Council and heard and accepted advice from the Legal Adviser. In accordance with Paragraph 13 of Schedule 2 of the Rules, the burden of proving the facts set out in the Allegation rested upon the Council. In addition, Paragraph 12 of Schedule 2 of the Rules specified the approach which the Committee should take when considering the Allegation. The Committee was advised that the certificates of conviction should be treated as conclusive proof of the conviction and the facts underlying the conviction. The Registrant could rebut that presumption, only where she could show that she was not the person named on the face of the certificates or that she had successfully appealed her convictions to a court of competent jurisdiction.

The Committee then considered the Allegation.

Particular 1: Defendant on various dates between the 10 July 2020 and the 16 July 2020 stole CASH to the value of £655.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.

Particular 2: Defendant on dates between the 8 day of December 2019 and the 12 day of July 2020 stole CASH to the value of £10.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.

Particular 3: Defendant on dates between the 1 July 2020 and the 16 July 2020 stole CASH to the value of £160.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.

Particular 4: Defendant on the date 06/07/2020 stole CASH to the value of £180.00 or thereabouts, belonging to [redacted] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.

Applying the provisions of Paragraph 12 of Schedule 2 of the Rules, the Committee was satisfied that the certificates of conviction presented by the Council in respect of the Registrant were such as to prove conclusively that she had been convicted as set out. The Registrant had not presented any evidence to rebut that conclusion.

Fitness to Practise

Mr Carson made a submission to the Committee on the question of the Registrant's current fitness to practise. Mr Carson submitted that the Registrant's actions which led to her criminal convictions, called into question her suitability to work in social care services, and to remain on the Register without restriction, or to be registered at all.

Mr Carson submitted that the Registrant's actions constituted serious wrongdoing on her part. He referred the Committee to breaches of the Standards of Conduct and Practice for Social Care Workers by the Registrant as follows: 2, 2.1, 5, 5.1, 5.2, 5.8.

The Committee heard and accepted the Legal Adviser's advice. The Committee was told that the question of whether the Registrant's actions, as evidenced by the certificates of conviction, were such as to entitle the Committee to find that the Registrant's fitness to practise was currently impaired, was a matter for the independent judgement of the Committee.

The Legal Adviser also referred the Committee to the cases of Cohen v GMC, Meadow v GMC, and CHRE v NMC and Grant. Finally, the Committee was reminded that its approach was set out at Paragraph 24 (3) of Schedule 2 of the Rules when deciding upon the issue of current impairment of fitness to practise:

- (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.

When considering the Registrant's actions, by reason of her convictions, the Committee was satisfied that she had breached the following Standards:

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:

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

5.2 Exploit service users, carers or colleagues in any way;

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

The Committee first considered whether the Registrant's actions were capable of remedy. To the Committee's mind, such behaviour would be very difficult to remedy. The Registrant had stolen money from vulnerable service users while she cared for them in their own homes. In this instance, the Registrant had provided no evidence of insight, remorse or any steps taken by her to remedy her wrongdoing. As such, the Committee considered that there was a high likelihood that the Registrant would repeat the behaviour complained of.

The Committee had regard to the formulation provided by Dame Janet Smith in her fifth report to the Shipman Inquiry (cited with approval by Cox J in Grant), and determined that the Registrant: a.) had in the past, and was liable in the future, to put service users at unwarranted risk of harm; b.) had in the past, and was liable in the future, to breach fundamental tenets of the social care profession; c.) had in the past, and was liable in the future, to bring the social care profession into disrepute; and d.) had in the past, and was liable in the future, to act dishonestly.

For these reasons, the Committee was satisfied that a finding of current impairment of the Registrant's fitness to practise was required for public protection reasons.

The Committee also considered the public interest, which included the need to declare and uphold the proper standards of conduct and behaviour, and to maintain the reputation of the social care profession and the Council in its regulatory function. The Committee was satisfied that a failure to make a finding of current impairment of fitness to practise on public interest grounds would undermine the public's trust and confidence in the social care profession, and would fail to declare and uphold proper standards of conduct and behaviour.

For these reasons, the Committee was satisfied that a finding of current impairment of the Registrant's fitness to practise was also required on public interest grounds.

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

Sanction

The Committee heard a submission from Mr Carson on the question of what, if any, sanction to impose. The Committee was informed that the Registrant had no previous regulatory findings against her.

The Committee heard and accepted the Legal Adviser's advice. He set out the range of available sanctions which were provided for by Paragraph 26 of Schedule 2 of the Rules. In summary, the Committee could impose no sanction, warn the Registrant for a period of up to five years, make a Conditions of Practice Order not to exceed three years, make a Suspension Order not to exceed two years or make a Removal Order.

The Committee was reminded that the purpose of a sanction was not to be punitive, although a sanction may have a punitive effect. Instead, in its consideration of a sanction, the Committee should have at the forefront of its mind the need to protect the public and the public interest. The Legal Adviser also reminded the Committee that it should act proportionately, and that any measure taken to limit the fundamental right of the Registrant to practise in the social care setting should be no more than what was necessary in the public interest.

The Committee carefully considered all of the available documentary material, together with Mr Carson's submissions. It also had careful regard to the Northern Ireland Social Care Council Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance').

The Committee considered the aggravating and mitigating factors in this case.

The Committee considered the mitigating factors to be as follows:

- The Registrant had no previous regulatory findings against her;
- The Registrant had made admissions during police interviews and had pleaded guilty to the charges which she faced. Her guilty plea avoided the need for a contested hearing. However, the Committee noted that the Registrant's admissions were made when she was presented by the police with strong evidence of her wrongdoing during the interview process; and
- Having regard to the certificates of conviction which required the Registrant, as part of her Probation Order, to undertake REDACTED and/or attend REDACTED, there was some suggestion that the Registrant's offending may have had something to do with REDACTED. However, there was no evidence presented by the Registrant in that regard to the Committee at the hearing.

The Committee considered the aggravating factors to be as follows:

- The Registrant had acted dishonestly;
- The Registrant had used her position for financial gain and had abused her position of trust;
- The Registrant's actions were premeditated, persistent and took place over a relatively prolonged period;
- There was evidence of concealment by the Registrant of her wrongdoing;
- The Registrant had failed to engage with the Council in the regulatory proceedings against her – she had failed to provide evidence of insight and remediation. She had failed to demonstrate remorse for her actions;
- The Registrant's wrongdoing was only possible by having access to vulnerable service users as a result of her registration as a social care worker; and
- The Registrant had caused financial harm to service users by stealing money from them. Her actions, which occurred in the homes of vulnerable service users who looked to the Registrant for care, had the potential to cause emotional harm in addition to financial harm.

Having balanced the aggravating and mitigating factors, and having taken into account the interests of public protection and the public interest, the Committee was satisfied that some form of sanction was necessary, and proceeded to consider which sanction to apply in this case.

No Sanction – Having regard to its findings, the Committee considered that to conclude this matter and to take no further action would be a wholly inadequate response and would fail to protect the public and uphold the public interest.

Warning – For similar reasons as those advanced under 'No Sanction', the Committee concluded that to issue the Registrant with a warning would fail to protect the public and uphold the public interest.

Conditions of Practice Order – The Committee had no evidence as to the Registrant’s current employment and was not aware as to whether an employer would co-operate with the imposition of conditions. In any event, the Committee concluded that a Conditions of Practice Order was insufficient to protect the public and uphold the public interest. There were no concerns about the Registrant’s practice which would require the imposition of conditions. The wrongdoing was too serious for such a disposal, in the Committee’s view.

Suspension – The Committee gave careful consideration to this sanction. However, the Committee noted that the Registrant had failed to engage with the regulatory proceedings against her and had not shown insight or remorse for her actions. The Registrant had engaged in deplorable behaviour towards some of the most vulnerable service users in society. They were aged in their nineties, were physically frail and relied upon the Registrant to provide them with personal care in their own homes. The Registrant abused her privileged position as a social care worker for her financial gain. She made admissions to police only when the strength of the evidence against her was clear, leaving her with little option but to admit her wrongdoing. There was evidence of financial harm as a result of the Registrant stealing service users’ money and the potential for emotional harm caused by the Registrant to service users could not be discounted. As such, the Committee concluded that the Registrant’s behaviour, combined with her lack of insight and remediation, was fundamentally incompatible with her remaining on the Social Care Register.

Removal – As a result, the Committee decided that the only appropriate and proportionate sanction to impose, with immediate effect, was to make a Removal Order in respect of the Registrant’s registration. In addition, the Committee decided, with immediate effect, to revoke the Interim Suspension Order, to which the Registrant has been subject until this hearing.

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.



17 February 2022

Committee Clerk

Date