

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

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**Name:** Sandra Elizabeth Mills

**SCR No:** 6024545

**NOTICE IS HEREBY GIVEN THAT** the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **Wednesday 04 May 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 your misconduct;**

**The Committee decided to issue a Warning, and directed that a record of the Warning should be placed on your entry in the Register for a period of three years.**

**Particulars of the Allegation:**

1.	That, on 14 October 2016, 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 District Judge's Court:
	<ul style="list-style-type: none"><li>a) Defendant on the 28<sup>th</sup> day of March 2015 in the County Court Division of Belfast, stole cash to the value of £90.00 or thereabouts belonging to (redacted), contrary to section 1 of the Theft Act (Northern Ireland) 1969;</li><li>b) Defendant on the 17<sup>th</sup> day of May 2015 in the County Court Division of Belfast, stole cash to the value of £250.00 or thereabouts belonging to (redacted), contrary to section 1 of the Theft Act (Northern Ireland) 1969;</li><li>c) Defendant on the 21<sup>st</sup> day of May 2015 in the County Court Division of Belfast, stole cash to the value of £250.00 or thereabouts belonging to (redacted), contrary to section 1 of the Theft Act (Northern Ireland) 1969;</li><li>d) Defendant on the 7<sup>th</sup> day of June 2015 in the County Court Division of Belfast, stole cash to the value of £100.00 or thereabouts belonging to (redacted), contrary to section 1 of the Theft Act (Northern Ireland) 1969;</li></ul>

- e) Defendant on the 9<sup>th</sup> day of June 2015 in the County Court Division of Belfast, stole cash to the value of £250.00 or thereabouts belonging to (redacted), contrary to section 1 of the Theft Act (Northern Ireland) 1969;
- f) Defendant on the 10<sup>th</sup> day of June 2015 in the County Court Division of Belfast, stole cash to the value of £200.00 or thereabouts belonging to (redacted), contrary to section 1 of the Theft Act (Northern Ireland) 1969;
- g) Defendant on the 12<sup>th</sup> day of June 2015 in the County Court Division of Belfast, stole cash to the value of £60.00 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 conviction.

2. That, having been convicted of the above offences on 14 October 2016, you failed to report your criminal convictions to the Council at the first reasonable opportunity, as required under the standard 6.6 of the Standards of Conduct and Practice for social care workers.

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

## **Procedure**

The hearing was held under the fitness to practise procedure.

## **Preliminary Matters**

The Fitness to Practise hearing was held remotely by way of video link. The Registrant was in attendance and was represented by Mr Joe McCusker, Union Representative, Unison. The Council was represented by Mr Peter Carson, Solicitor, Directorate of Legal Services.

## **Application to Admit Hearing Bundle**

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

## **Declarations of Conflict of Interest**

The Chair of the Committee advised that none of the Committee Members had any conflict of interest with the case.

## **Background**

The Registrant is registered on Part 2 of the Register. This matter was first brought to the attention of the Council by way of a self-referral from the Registrant on 30 September 2020. The self-referral advised the Council that the Registrant had been convicted, in September 2016, in respect of a number of thefts and had not declared those to the Council in the intervening period.

The Registrant was convicted of seven counts of theft of various sums of money, ranging from £60 to £250, between the dates of 28 March 2015 and 12 June 2015. The Registrant pleaded guilty on 16 September 2016

and was sentenced on 14 October 2016. In respect of each theft, the Registrant received a three-month prison sentence, concurrent on each count, suspended for 18 months. In addition, she was ordered to pay compensation in the sum of £1200, which represented the total monies which she had stolen.

The Registrant stated in her self-referral that *'I deeply regret not declaring it when it happened as i know now i should have, but i was and still am so scared of losing my job.'* [sic]

As a result of the referral being received, the Council contacted the Registrant by email on 19 October 2021, and requested further information in relation to the circumstances of the convictions and the failure to disclose them until 30 September 2020, some four years later.

The Registrant replied to the Council on 30 October 2021. The Registrant stated in her reply, in relation to why she had failed to disclose to the Council at the time of the convictions, that *'I was fooling myself into thinking that I didn't need to report it as it was a separate matter from my work. Even with me knowing the context in which it happened I was and still am so embarrassed and ashamed of what happened and how it looks. I was and am terrified of losing my job over this but I know now I should have declared it at the time I deeply regret this now and I know by not reporting it I've made a massive mistake...I knew deep down it would have to be declared at some point, it was just a matter of when I could gain the courage. So I am declaring it now. The burden is just too much now and putting it off over and over has caused me so much stress.'*

## **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 first Particular. He told the Committee that the second Particular against the Registrant arose from her alleged failure to report these seven criminal convictions for theft to the Council at the first reasonable opportunity, as required under Standard 6.6 of the Standards of Conduct and Practice of Social Care Workers. He noted that the Registrant made a self-declaration of these criminal convictions nearly four years after her convictions. He noted the Registrant's explanation for this failure in her email to Council of 30 October 2020.

## **Registrant's Submissions**

Mr McCusker, on behalf of the Registrant, stated that the facts of Particular 2 were admitted, and that the Registrant accepted that she was the person named in the certificates of conviction which were before the Committee.

## **Finding of Facts**

The Committee took into account the submissions made by Mr Carson on behalf of the Council, and by Mr McCusker on behalf of the Registrant. The Committee heard and accepted advice from the Legal Adviser.

**Particular 1:** 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 in Particular 1, and the facts underlying same.

**Particular 2:** Applying the provisions of Paragraph 23 of Schedule 2 of the Rules, the Committee found proved the facts on the basis of the Registrant's admission to same.

### **Fitness to Practise**

At this stage of the proceedings, the Registrant gave evidence to the Committee. She told the Committee about her work history with Bryson Care. She remained employed by Bryson Care, and worked as part of a team which assisted service users who had been discharged from hospital, taking up their package of care in the community. The Registrant was a valued member of the team, and she worked hard to build trust and confidence with service users and their families.

The Registrant was ashamed and embarrassed by her convictions. She stated that she had no legal justification in taking monies which did not belong to her. She had some sense that the deceased's daughter had agreed to the Registrant taking money but, when questioned by the Committee, the Registrant accepted that she was entirely responsible for taking the money when she had no right to do so. The Registrant told the Committee that £200 of the money had been used to pay a bill, but that that sum was then returned and the remaining money was used to fund a holiday. As required by the Court Order, all of the money taken had been paid back by the Registrant.

The Registrant accepted that she had acted unacceptably by failing to declare her convictions in a timely manner to either her employer or to the Council. When her employer was advised, the Registrant stated that they were supportive of her, and that measures were put into place to safeguard service users. This arrangement was that an additional care worker accompanied the Registrant to calls to service users' homes. The Registrant stated that she became '*more and more aware*' of the need to declare the convictions, and that her failure to do so had negatively impacted on her health. The Registrant stated that the main reason for her failure to declare the convictions was her fear that she would lose her employment as a result.

Mr Carson made a submission to the Committee on the question of whether the Registrant's current fitness to practise was impaired. Mr Carson submitted that the Registrant's actions which led to her criminal convictions, and her subsequent failure to declare them, 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 what he submitted were breaches of the Standards as a result of her actions. In particular, Mr Carson referred to the following Standards of Conduct and Practice for Social Care Workers by the Registrant as follows: 2, 2.1, 2.6, 5, 5.8; 6.6.

Mr McCusker submitted that the Committee, having heard evidence from the Registrant, could be satisfied that she had demonstrated insight, remorse and regret for her actions, to such an extent that the risk of repetition was '*minimal or non-existent*'. Mr McCusker referred the Committee to testimonials from the Registrant's employer, which spoke highly of her personally and professionally.

The Committee carefully considered the available evidence, which included Exhibit 1 and the Registrant's oral evidence.

The Committee heard and accepted the Legal Adviser's advice. The Committee was told that the question of whether 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, 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:**

5.8 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.

In relation to Particular 1, the Committee was satisfied that, by her convictions, the Registrant had breached the above Standards. Further, in relation to Particular 2, the Committee was satisfied that her actions fell below the Standards to be expected of a registered social care worker, that her actions were serious and that they amounted to misconduct.

The Committee considered whether the Registrant's actions were capable of remedy. To the Committee's mind, such behaviour would, in principle, be remediable. The Committee next considered whether, in fact, the Registrant had remedied her misconduct and whether there would be a repetition of same in the future. The allegations, which had been found proved against the Registrant, were very serious. On repeated dates, she had stolen money to which she was not entitled. Further, having been convicted of these thefts, she failed in her duty to disclose the convictions to her employer and to the Council. The Committee carefully considered the Registrant's evidence which she gave at the hearing. It was clear to the Committee that the Registrant was apologetic and remorseful for her actions. The Registrant was genuine in her expressions of remorse and regret. Further, the Committee had the benefit of positive testimonials from the Registrant's employer, which confirmed that she was a caring individual, who was well respected by her colleagues, service users and their families. The Committee was satisfied, as a result, that the Registrant's insight into her wrongdoing was well developed. However, the Committee was slightly troubled by some elements of the Registrant's evidence. In particular, although she accepted that she had no legal right to take money which did not belong to her, the Registrant continued to suggest, to some extent, that her actions had the consent of the deceased's daughter. Accordingly, although well developed, the Committee considered that the Registrant had still some way to go before it could be said that she had full insight into her wrongdoing. Notwithstanding this reservation, having considered the Registrant's oral evidence and the available documentary evidence, the Committee, while not being able to discount the risk completely, concluded that the risk of repetition was negligible.

The Committee, having regard to its findings, considered the formulation provided by Dame Janet Smith in her 5<sup>th</sup> report to the Shipman Inquiry (cited with approval by Cox J in Grant), and determined that the Registrant: a.) had in the past put service users at unwarranted risk of harm; b.) had in the past breached fundamental tenets of the social care profession; and c.) had in the past brought the social care profession into disrepute. Having regard to its findings in relation to the Registrant's well-developed insight and negligible risk of repetition, the Committee concluded that a.), b.) and c.) of the formulation were not engaged looking towards the future.

For these reasons, the Committee was satisfied that a finding of current impairment of the Registrant's fitness to practise was not required for public protection reasons.

The Committee next 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 Registrant had been convicted of multiple counts of theft, which had taken place over a period of time. She had failed in her duty, as a registered social care professional, to notify her employer and the Council of her convictions. A member of the public, with knowledge of her convictions and subsequent

actions, in the view of the Committee would be dismayed and troubled. Accordingly, 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 required on public interest grounds.

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

## **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. Mr Carson set out the mitigating and aggravating factors which he said applied to this case, and submitted that the only appropriate sanction to impose was a Removal Order.

In his submission to the Committee, Mr McCusker asked the Committee to consider all of the available documentary and oral evidence. Mr McCusker submitted that a Warning was an appropriate and proportionate sanction to impose.

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 is 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 is necessary in the public interest.

The Committee carefully considered all of the available evidence, both oral and documentary, together with the submissions of Mr Carson and Mr McCusker. 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 a previous good history. She had worked for approximately 20 years in a social care setting which included, most recently, during the challenging circumstances presented by the pandemic;

- Whilst the Registrant had failed to disclose her convictions in a timely way, she had made a self-referral of them to her employer and to the Council;
- The Registrant had fully co-operated with the Council's investigation;
- The Registrant made an early admission as to the facts at the hearing. She had made a full admission during the Police interview, and had pleaded guilty without the need to bring witnesses to Court;
- The Registrant had made a genuine expression of her regret and remorse;
- The Registrant had a well-developed, but not full, insight into the seriousness of her wrongdoing;
- There had been no other regulatory concerns in respect of the Registrant's practice; and
- The Registrant had provided relevant and appropriate testimonials from her employer, which confirmed that the author was aware that the testimonials were being provided for these proceedings.

The Committee considered the aggravating factors to be as follows:

- The Registrant had been convicted of multiple offences of dishonesty over an extended period of time;
- The Registrant had abused the trust reposed in her by the deceased's daughter;
- There was evidence of concealment by the Registrant of her wrongdoing from her employer and the Council;
- The Registrant's actions were persistent and premeditated; and
- The Registrant had shown a disregard for professional standards.

Having taken into account the aggravating and mitigating factors 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 an inadequate response, and would fail to uphold the public interest.

**Warning** – the Committee had regard to Paragraphs 4.8 - 4.12 of the Guidance. In particular, the Committee had regard to those factors which would be present in a case in which a Warning was imposed. In this case, the Committee was satisfied that the following factors were present in the Registrant's case:

- There was evidence that the Registrant's behaviour had not caused direct harm to service users in her care;
- The Registrant was very insightful into her failings and, in the view of the Committee, the risk of repetition was negligible;
- The Registrant had made a timely and genuine expression of her regret and remorse;
- The Registrant was working safely and effectively in the social care sphere and was well regarded by her colleagues, service users and their families; and



- There was no evidence of a repetition of the behaviour which had resulted in the Registrant's referral to the Council.

From its consideration of the available documentary and oral evidence, the Committee was in no doubt that these proceedings have taught a salutary lesson to the Registrant. The Registrant was clear in her evidence about the need to adhere to the highest possible standards as a social care worker, both inside and outside the working environment.

After careful consideration of these factors, the Committee concluded that the Registrant's failings were at the lower end of the spectrum of impairment and that there was a minimal risk of repetition. In the unusual and exceptional circumstances of this case, having considered all of the available material and the oral evidence of the Registrant, the Committee considered that a Warning was sufficient to uphold and protect the public interest. In its judgement, a Warning would mark the Committee's disapproval of the Registrant's actions, making it clear that she should not act in a similar fashion in the future. The Committee also considered that this was the type of case in which the public interest could be upheld by permitting a safe and effective social care worker to return to unrestricted practice.

The Committee had regard to Paragraph 4.8 of the Guidance, and decided that a Warning for a period of three years was appropriate and proportionate in light of the Registrant's failings and the need to declare and uphold proper standards in the social care workforce, together with the need to maintain the social care workforce's reputation.

In considering sanction, the Committee did look at the next sanction in ascending order of gravity, namely a Conditions of Practice Order. The Committee noted that there were no current concerns about the Registrant's practice, and the Committee had not identified a need to make a finding of current impairment of the Registrant's fitness to practise on public protection grounds. For these reasons, the Committee concluded that the imposition of a Conditions of Practice Order would be inappropriate and disproportionate, and that a Warning is the most appropriate and proportionate sanction in all of the circumstances.

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**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 you have been warned and a record of the Warning has been placed on your entry in the Register for a period of three years (04 May 2022 – 03 May 2025). This Warning does not affect your ability to practise.**

*JAdew*

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Committee Clerk

10 May 2022

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Date