

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

Name: Aidan Bradley

SCR No: 7001218

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **17 and 18 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 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 two years.

Particulars of the Allegation:

That on unknown dates during the period from 01 January 2020 until 03 February 2021, whilst being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), as a student social worker:

1. You posted video clips on social media which contravened the relevant Northern Ireland Social Care Council's Standards of Conduct and Practice. By doing so, you behaved in a way that is not compatible with the standards expected of a student undertaking professional social work training, and in doing so, put in jeopardy public confidence in the social work profession.

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 Registrant was in attendance and was represented by Ms Sarah Agnew, Barrister, who was instructed by Ms Leanne McKeown of Rosemary Connolly Solicitors. The Council was represented by Mr Michael Potter, Barrister, instructed by the Directorate of Legal Services on behalf of the Northern Ireland Social Care Council ('the Council').

Application to Admit Hearing Bundle

The Committee accepted the bundle of documents into evidence and marked it as Exhibit 1. The Committee also accepted into evidence a bundle of documents provided by the Registrant, and marked it as Exhibit 2.

Conflicts of Interest

The Chair of the Committee confirmed that none of the Committee Members have any conflict of interest with the case.

Background

Mr Potter told the Committee that this matter was first brought to the Council's attention upon receipt of an anonymous concern raised by a member of the public in relation to the Registrant's alleged social media activity. He submitted that the anonymous referral related to TikTok videos which, it is alleged, were made and published online by the Registrant. Mr Potter told the Committee that the Registrant was, at the time, a social work student at Ulster University.

Submissions on Facts

Mr Potter invited the Committee to view the video clips and screen shots as referred to in Exhibit 1.

Mr Potter told the Committee that an Agreed Statement of Facts had been agreed between the Registrant and the Council, and submitted this for consideration by the Committee. The Committee accepted the Agreed Statement of Facts into evidence, and labelled it as Exhibit 4.

The Agreed Statement of Facts stated as follows:

'Following concerns raised in relation to the Registrant, Aidan Bradley's fitness to practice [*sic*] by reason that he posted video clips on social media which contravened the Northern Ireland Social Care Council's Standards of Conduct and Practise [*sic*], behaved in a way that is not compatible with the standards expected of a student undertaking professional social work training, and in doing so put in jeopardy public confidence in the social work profession.

The Registrant hereby accepts that in posting said videos he breached the said standards of Conduct and Practise [*sic*] and is guilty of misconduct. And in particular accepts:

- (1) that the videos contained inappropriate and offensive material that was not consistent with his professional duties as a trainee social worker and the values he is required to maintain;
- (2) that the videos breached the values underpinning the standards of conduct;
- (3) that the videos breached the standards contained in paragraphs 5.8 and 5.9 of the standards;
- (4) that he failed to bear in mind that his conduct outside of his course and in his personal life could have an impact on his fitness to practise; and
- (5) his conduct jeopardised public trust and confidence in social care services.

The Registrant further accepts that said misconduct constitutes an impairment of his fitness to practice [*sic*] for the purposes of the Fitness to Practise Rules and in particular Rule 4.

And the Registrant submits to the jurisdiction of the Fitness to Practice Committee [*sic*] in respect of any sanction it might deem fit to impose.

Having taken into account the attitude and insight of the Registrant and the character references recently provided, the Council is prepared to recommend to the Committee that a warning would be an appropriate sanction.'

Mr Potter referred the Committee to the Council's Standards of Conduct and Practice for Social Work Students ('the Standards') and, in particular, Standards 5.8 and 5.9. He submitted that the videos posted on TikTok by the Registrant breached these Standards. He said that the videos contained inappropriate and offensive material that was inconsistent with the professional duties and values of a social work student. He said that whilst the Council recognised that the videos were posted in the Registrant's private time, and there is a right to free speech and personal expression, it was submitted that the videos were clearly in breach of the Standards that the Registrant was required to uphold.

Mr Potter divided the videos into three categories, and submitted that in the first category there were three videos of particular concern at download 2, download 3 and download MP4. He submitted that the contents of these three videos were unacceptable. He said that the contents were sexist and exhibited stereotypical attitudes about women.

Mr Potter submitted that downloads 12,13,14 and 15 were not as inappropriate. However, the content was inappropriate as regards public figures and the use of offensive language. He submitted that the remainder of the videos were inappropriate.

Ms Agnew told the Committee that the videos posted by the Registrant took place at the time of the pandemic. She said that during the pandemic, with people at home, millions of people engaged in more frequent use of social media and, in particular, TikTok. She said that at this time, the Registrant had no contact with his children and was estranged from his wife. He was alone at home and used social media as a means of escape.

Ms Agnew outlined how TikTok permits users to post short video clips, sometimes by way of duet where the screen is split so that users can post a video together. She submitted that no service users or organisations were referred to in the posts, and that there was no mention of the Registrant's career, profession or what he was studying. She said that the Registrant accepted that the content of the videos was inappropriate and offensive. She told the Committee that the Registrant has removed himself from social media since the time of the allegations, and sought advice from the Council as regards training courses in the use of social media. He was advised that there was no such course available to him. She confirmed to the Committee that the Registrant admitted the facts as set out in the Agreed Statement of Facts.

Finding of Facts

In considering the Particulars of the Allegation, the Committee took into account the bundle of documents in Exhibit 1 and viewed the following TikTok videos:

Download (1).mp4

Download (2).mp4

Download (3).mp4

Download (4).mp4

Download (6).mp4

Download (7).mp4

Download (9).mp4

Download (12).mp4

Download (13).mp4

Download (14).mp4

Download (15).mp4

Download (16).mp4

Download (17).mp4

Download (19).mp4

Download (22).mp4

Download.mp4

Screenshot_20201025-015042.jpg

Screenshot_20200125-015945.jpg

Screenshot_20201220-163927.jpg

Screenshot_20210101-005803.jpg

The Committee was presented with an Agreed Statement of Facts, where the Registrant accepted that he had posted videos which breached the Standards as set out in the Particulars of the Allegation.

The Committee took into account the submissions made by Mr Potter and Ms Agnew, and accepted the Registrant's admission as set out in the Agreed Statement of Facts, and found the Particulars of the Allegation proved.

Fitness to Practise

Mr Potter produced to the Committee a letter sent to the Registrant by the Council, dated 12 March 2020, which the Committee accepted into evidence and labelled as Exhibit 3. He noted that in the Agreed Statement of Facts, the Registrant accepted that his fitness to practise was impaired by reason of his misconduct in posting videos online which contained inappropriate and offensive material. He referred the Committee to Schedule 2 Paragraph 24 (3) of the NISCC Fitness to Practise (Amendment) Rules 2019 ('the Rules').

Mr Potter submitted that the videos posted online by the Registrant were of a sexist nature and objectified women. He referred the Committee to the Standards and, in particular, 5.8 and 5.9. He submitted that the Standards require social work students to conduct themselves professionally at all times, and to uphold public trust and confidence in social work services. He referred the Committee to the previous incident involving the Registrant, as detailed in Exhibit 3. He submitted that the Registrant was put on notice by the Council that the letter of advice would be considered in the event of any further referrals regarding his fitness to practise. He therefore asked the Committee to consider the risk of repetition, and whether the Registrant's actions were capable of remediation. In considering public interest, he submitted that the Registrant was training to be a professional social worker and that, in doing so, he must be cognisant of the Standards of the profession.

Ms Agnew told the Committee that the Registrant accepted that the videos which he posted were inappropriate. She told the Committee that the Registrant expressed remorse for his actions. She said that he has clear insight into his behaviour and no longer uses social media. In addition, she said that there have been no further complaints about the Registrant since the time of the allegations. Ms Agnew noted the Registrant's attempts to access training courses in the use of social media. She submitted that no service users were placed at risk of harm as a result of the Registrant's actions. She suggested that there was no guidance provided by the Council as regards the use of social media.

Ms Agnew gave the Committee details of the Registrant's work since May 2020. She said that he had been working in social care and, once lockdown was lifted, he worked on the front line in various independent care homes, and subsequently in the community. She referred the Committee to the glowing testimonials as contained in Exhibit 2. As regards the previous incident in 2019, she told the Committee that this referred to a personal matter and was not similar to the issue being considered today.

During the time the Committee was deliberating and drafting its decision on the issue of impaired fitness to practise, the Committee Clerk received an email from the Registrant. The email stated as follows:

'Hi [REDACTED]

I have seen the pre-emptive document and I have reported what I have seen to my counsel. The way this has been conducted from start to finish is very worrying.

Regards

Aidan'

This email was forwarded after the Registrant briefly accessed the main session of the hearing where the Committee's decision was being drafted.

The Committee Chair told the Registrant that no decision had been made on sanction, and that the current stage of the proceedings related to consideration of impaired fitness to practise.

The Committee Chair asked for submissions from the Parties in relation to this email. Ms Agnew told the Committee that she had discussed this matter with the Registrant, and he was now satisfied that this was not a pre-emptive document. As regards the Registrant's comments that the conduct of the case was very worrying, Ms Agnew told the Committee that the hearing was difficult for the Registrant. She said that a remote hearing meant that he was not present with his representative and that the day had been long and challenging, with a lot at stake for him. She said that he had concerns with the time taken and had expected a more expeditious process.

Mr Potter said that if the Registrant has concerns in the midst of proceedings, it was better to raise these at the time and, if possible, to address and resolve these concerns.

Decision on Impairment of Fitness to Practise

The Committee considered the submissions from Mr Potter on behalf of the Council, the submissions from Ms Agnew on behalf of the Registrant, and had regard to all of the evidence in the case.

The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Standards, and advised it to adopt a sequential approach when considering this issue. In particular, she asked it to take into account the nature and content of the allegation against the Registrant, and reminded the Committee that it is being asked to determine whether the Registrant's fitness to practise is impaired because of this misconduct. She referred the Committee to Paragraph 24 of Schedule 2 of the Rules, and the requirements as set out in the case of the GMC v Cohen, looking at the current competence and behaviour of the Registrant, along with the need to protect service users and members of the public, the upholding of proper standards of behaviour, and the maintenance of public confidence in the social care profession. She further referred the Committee to the findings of Dame Janet Smith in the 5th Shipman Report as regards the potential causes of impairment. She also referred the Committee to the cases of GMC v Meadows 2006 and CHRE v NMC & Grant 2011.

The Committee considered whether the Registrant's fitness to practise was impaired by reason of his 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 first considered whether the Registrant's conduct, as admitted and found proved, amounted to misconduct. The Committee noted the Registrant's admission in this regard as set out in the Agreed Statement of Facts. However, the Committee applied its own judgement to the question of misconduct. The Committee took into account the content of the video clips and screenshots, and noted that the videos were posted over a prolonged period of time. The Committee agreed that these videos contained inappropriate and offensive material, and crossed the threshold for misconduct and were serious. In particular, the Committee had regard to the foul language used by the Registrant in the video clips. The Committee considered the contents of download 2 and download MP4 to be of most concern. The Committee considered that the Registrant showed very poor judgement in sharing these videos online and in using foul language. The Committee accepted that some of the video clips showed the Registrant expressing his personal opinions, to which he was entitled.

The Committee had regard to the Standards of Conduct and Practice for Student Social Workers, and considered that the Registrant's actions breached the following standards:

Standard 5: As a social 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; or
- 5.9 Use social media or social networking sites or other forms of electronic communication in a way that contravenes professional boundaries, organisational guidelines or the Social Care Council standards.

The Committee then went on to consider whether the Registrant's behaviour was capable of remedy. In considering this, the Committee had regard to the findings of Dame Janet Smith in the 5th Shipman Inquiry. The Committee considered whether the Registrant's actions breached fundamental tenets of the social work profession and brought the profession into disrepute. The Committee took into account the Registrant's admissions and that his behaviour took place during the pandemic. In addition, the Committee noted that the Registrant no longer used social media and had acknowledged that the video contents were inappropriate. The Committee took into account the correspondence from the Registrant's counsellor, dated 08 March 2022. The Committee was satisfied that the Registrant's misconduct was capable of remedy, and noted the Registrant's unsuccessful attempts to access training courses regarding use of social media and his attendance at counselling.

The Committee directed itself to considering the risk of repetition. The Committee noted that the Registrant had been previously referred by the Council to the Standards of Conduct and Practice for Social Work Students and,

in particular, Standards 5.8 and 5.9. Therefore, at the time of posting videos on TikTok, the Registrant was aware of the expectations as regards his behaviour whilst undertaking social work professional training. The Committee, therefore, considered that there remained a risk of repetition of his behaviour in the future.

The Committee finally addressed itself to the question of public interest, and whether public confidence in the social work profession would be undermined if a finding of impairment was not made. The Committee took into account that the public interest included the need to protect vulnerable service users and the public, to maintain public confidence in the profession and to declare and uphold proper standards of behaviour. This matter was brought to the attention of the Council by way of a complaint made by an anonymous member of the public. The video clips were published on a public platform and, therefore, the public interest in this matter was high, with the profession being brought into disrepute.

Therefore, the Committee concluded that the Registrant's fitness to practise was impaired by reason of his misconduct.

After the decision on impairment was provided to the Parties, the Committee Chair indicated that it was appropriate to conclude the proceedings for the first hearing day. He noted the time as being 16.45, and that consideration had yet to be given to the issue of sanction. He further noted that this would involve submissions from both Parties, the provision of legal advice, Committee deliberations and the drafting of a decision. In these circumstances, he said that it would be manifestly unfair to continue. He drew attention to the listing of this hearing for two days, and suggested that the hearing would resume on the morning of 18 May 2022.

The Council told the Committee that it had no objection to the proposal. Ms Agnew told the Committee that the Registrant would prefer that the hearing would conclude today.

The Committee considered the submissions, and decided that it was appropriate and fair to conclude the hearing at this time and reconvene the next morning at 09.30 am.

Sanction

The Committee heard a submission from Mr Potter on the question of what, if any, sanction to impose. He referred the Committee to the Registrant's previous disciplinary record with the Council, as detailed in Exhibit 3. He noted that the letter of advice made specific reference to the Registrant's future conduct, and referred to the Standards of Conduct and Practice for Social Work Students, 5.8 and 5.9.

Mr Potter noted that the Standards are specifically drafted for social work students and refer to the behaviour, attitude and values expected of registrants, and are the benchmark of good practice. He submitted that these are explicit Standards, and that social work students are expected to exercise their developing professional judgement in light of these Standards, both in and outside of the workplace. He told the Committee that social work students sign a declaration that they will comply with the Standards, and they are expected to familiarise themselves with the Standards, which he said are easy to access and of general application.

Mr Potter noted that the Registrant has accepted that he breached the Standards, and he submitted that the contents of Download 2 and Download MP4 particularly engage Standard 5.8. He submitted that it was important for the Registrant to accept responsibility for his conduct and exhibit insight. He said that there was a concern as regards the issue of repetition as, despite previous advice, the Registrant now had a finding of impaired fitness to practise for breach of the same Standards. He submitted that the sanction of a Warning was necessary and appropriate for the Registrant, and that the Standards should be taken seriously as they protect registrants, service users and colleagues. He said that a Warning would remind the Registrant that he had breached the Standards.

Mr Potter further addressed the Committee on Paragraph 26 of Schedule 2 of the Rules. He said that some of the videos were borderline acceptable, and that others may be deemed acceptable on the grounds of free speech. However, he suggested that some fell significantly short of the standards expected, particularly as regards stereotyping of women. He submitted that the sanction of a Warning would protect the public, and would be proportionate and strike the right balance.

Ms Agnew said that her client wished to express a heartfelt apology for his behaviour. She said that the Registrant wished to address the Committee at this part of the proceedings.

The Registrant told the Committee that he admitted that what he had done was wrong. He said that he accepted everything to come as a result of this, and that the language he had used in the videos was offensive. He said he was no longer 18 and that, at his age and with his life experience, he should have exercised judgement. He said that he was not proud of what had happened and that it was not easy hearing these things. He said that, without a shadow of doubt, he was wrong and that he expected to be sanctioned. He confirmed to the Committee that he had posted the videos during the second year of his social work course.

Ms Agnew made further submissions to the Committee. She referred the Committee to the letter from the Registrant's counsellor, dated 08 March 2022, whom he attended for personal issues and anger management from February – May 2021. She said that he further attended in December 2021 in relation to issues regarding allegations of misogynistic and sexist behaviour. She said that this counselling was undertaken at the Registrant's own expense. In addition, the Registrant had attempted to source training courses on social media, without success. She referred the Committee to the information previously provided as regards his work history and noted that he has been accepted as a bank social work support. She said he is motivated and continues to do everything he can to better himself. She referred the Committee to the three testimonials provided. She brought the Committee through the contents of the testimonials, and noted that the Registrant was commended for his positive attitude and his professional manner. She confirmed that the testimonials were provided in the knowledge that they would be used in the Registrant's fitness to practise hearing.

In considering mitigation, Ms Agnew submitted that the Registrant's actions were an error of judgement rather than inherently held views. She said that there had been no further incidents and the Registrant has no longer a public profile on social media. She said that he has been working in the field of social care with no concerns.

She submitted that the Registrant has fully co-operated and engaged with the Council's investigation. She submitted that the Registrant has shown relevant insight, and referred the Committee again to the counselling information. She suggested that there was no premeditation involved in the Registrant's videos, and that he had re-posted some of the videos during a very challenging time. She said that the videos did not target any victim or service user and took place outside of work, with the Registrant not being identified as a social work student. She acknowledged that the Registrant was provided with guidance as regards the Standards prior to this matter. However, there was no previous finding of impaired fitness to practise.

She referred the Committee to the Indicative Sanction Guidance at 4.12, and submitted that the majority of the factors applied to the Registrant.

The Committee heard and accepted the Legal Adviser's advice. She 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 Potter and Ms Agnew. 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 fully co-operated with the Council's investigation and made early admissions to the Allegations, along with an Agreed Statement of Facts;
- The Registrant had made an expression of his regret for his actions;
- The Registrant worked in social care throughout the pandemic;
- The Registrant has provided very positive testimonials from an employer and sports clubs where he works with young people. It was confirmed that the authors of the testimonials were aware of the proceedings; and
- There was no evidence of any actual harm to service users.

The Committee considered the aggravating factors to be as follows:

- The Registrant had shown a disregard for the Standards, being particularly aware of Standards 5.8 and 5.9 due to a previous matter;

- The Registrant used foul language and rude gestures in videos that he posted online, on repeated occasions;
- The Registrant's misconduct took place over a prolonged period of time; and
- The Registrant's actions were premeditated and had the risk of potential harm to the public.

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 no evidence that the Registrant's behaviour had caused direct harm to members of the public or service users;
- The Registrant was insightful into his failings and, in the view of the Committee, the risk of repetition was low;
- The Registrant made timely and genuine expressions of remorse;
- The Registrant has taken steps to address the issues arising from his misconduct by attending for counselling;
- The Registrant's testimonial as regards the time he worked as a call handler with a charity dealing with domestic abuse refer to him as being helpful, friendly and compassionate. The testimonials from sports clubs where the Registrant assisted as a volunteer coach describe him as being kind, friendly and encouraging to the young people with whom he worked.
- There was no evidence of 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 the Registrant has reflected and learned from these proceedings. The Registrant was clear in his evidence that the behaviour and language used in his TikTok videos was unacceptable.

The Committee carefully considered the Indicative Sanctions Guidance and, in particular, Paragraphs 4.8 – 4.12. Taking all of the evidence into account, the Committee considered that a Warning was sufficient to uphold and protect the public interest. In considering this, the Committee took into account the seriousness of the Registrant's misconduct and its finding that the public interest was engaged in the particular circumstances of the Registrant's misconduct. In addition, the Committee took into account the mitigating factors which it had

