



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

Name: Francis Christopher Osemwegie

SCR No: 6020753

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **01 June 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 29 November 2021, whilst being registered as a social care worker under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you were convicted before the Crown Court of the following offences:	
1.	Defendant on 6 th day of August 2020, unlawfully and maliciously inflicted grievous bodily harm upon [redacted], contrary to Section 20 of the Offences Against the Person Act 1861.
2.	Defendant on 6 th day of August 2020, unlawfully and maliciously inflicted grievous bodily harm upon [redacted], contrary to Section 20 of the Offences Against the Person Act 1861.
And your actions show that your fitness to practise is impaired by reason of your convictions as set out above.	

Preliminary Matters

Procedure

The hearing was held under the Fitness to Practise Procedure.

Preliminary Matters

The Registrant was not in attendance, nor was he represented. The Northern Ireland Social Care Council ('the Council') was represented by Ms Sinead Owens, Solicitor, Directorate of Legal Services.

Service

The Notice of Hearing and hearing bundle were sent to the Registrant by the Council by email, dated 21 April 2022, to the Registrant's registered email address.

Ms Owens told the Committee that the Registrant is currently serving a custodial sentence in HMP Maghaberry ('the Prison'). As a result, the Notice of Hearing and hearing bundle were sent by the Council by email to the Prison on 21 April 2022. A delivery receipt was received on the same date. The Council received an email from the Prison on 25 April 2022, stating that the Registrant refused to accept or sign for the Notice of Hearing and hearing bundle.

The Committee received legal advice from the Legal Adviser. He referred the Committee to the requirements as set out in Rule 3 and Paragraph 5 of Schedule 2 of the Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019 ('the Rules').

The Committee, in all of the circumstances of the case, was satisfied that the Notice of Hearing had been served in accordance with the Rules.

Proceeding in the Absence of the Registrant

Ms Owens made an application to proceed in the absence of the Registrant. She told the Committee that the Registrant had refused to accept the Notice of Hearing and hearing bundle. She invited the Committee to conclude that the Registrant's absence was a voluntary waiver of his right to attend. Ms Owens further submitted that it was in the public interest, given the serious nature of the Registrant's convictions, for there to be an expeditious disposal of the hearing.

The Committee heard 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 that the Registrant was currently serving a custodial sentence and that there was information before the Committee to indicate that the Registrant had refused to accept the Notice of Hearing and hearing bundle when it was served upon him in prison. The Registrant had not asked for an adjournment nor had he asked for arrangements to be made for him to join the hearing via video link from the prison. The Committee concluded that the Registrant, with knowledge of the proceedings, had voluntarily absented himself

from the hearing. There was no reason to suppose that an adjournment of the hearing would secure the Registrant's attendance at a later stage. The Committee also noted the serious nature of the allegations faced by the Registrant. It was also of the view that the public interest was strongly engaged. Accordingly, the Committee decided that it was fair and appropriate to proceed with the hearing in the Registrant's absence.

Application to Admit Hearing Bundle

Ms Owens requested that the hearing bundle be admitted into evidence. The Committee accepted the bundle into evidence and marked it as Exhibit 1. The Committee also accepted into evidence the email from the Prison, dated 25 April 2022, informing the Council that the Registrant had refused to accept the Notice of Hearing and the hearing bundle, and marked it as Exhibit 2.

Declaration of Interest

The Chair of the Committee stated that all members confirmed that they did not have any conflicts of interest with the case.

Background

The Registrant was first registered on Part 2 of the Register as an Adult Residential Day worker on 24 June 2016. The Registrant commenced work with Archer Resourcing, a healthcare recruitment agency based in Ipswich, in January 2021. The Registrant was assigned to a role in the Belfast Health and Social Care Trust ('the Trust'). The Trust confirmed that the Registrant was assigned to Fostering Services between January 2021 and May 2021, and thereafter with the Children with Disabilities Service from 30 June 2021 until 28 November 2021.

The Council received an Employer Referral Form ('ERF'), dated 10 December 2021, from Ms Pauline McDonald, Children's Service Manager at the Trust. The ERF stated:

"HSCT has become aware 30/11/21 that Mr Osemwengie [sic] was arrested on 6/8/2020 and charged with attempted murder of a pregnant woman and GBH of another and 3 other charges relating to events on 6/8/210 [sic]. He appeared in Belfast Magistrates Court on 8/8/20 and was remanded in Custody for 4 weeks to appear in Court on 4/9/20.

Without knowledge of the above, BHSCF Fostering Service employed Mr Osemwengie [sic] via an Employment Agency between January 2021 and May 2021.

Children with Disabilities Service employed him via the same Agency between 30th June 2021 and 28th November 2021.

Mr Osemwengie [sic] did not report for duty on 29/11/21 as expected. Subsequent contact with PSNI and The Council led the Trust to discover that in fact the staff had been convicted of attempted Murder and GBH on 29/11/21."

The ERF further stated that it was the Trust's understanding that the Registrant appeared at "Belfast Magistrate's Court 4/9/20" and was "charged with attempted Murder and GBH." The ERF also stated:

"I believe that the registrant is currently remanded in custody, awaiting sentence and cannot be contacted. We are not at this stage entitled to any more information..."

Evidence

Ms Owens referred the Committee to the Certificate of Conviction and witness statements contained in Exhibit 1. She advised that the Certificate of Conviction confirmed that the Registrant had been convicted on 29 November 2021, before the Crown Court, of two counts of causing grievous bodily injury to two different individuals, contrary to Section 20 of the Offences Against the Person Act 1861. The Registrant had committed the offences on 06 August 2020. Ms Owens further stated the Certificate of Conviction disclosed that the Registrant had pleaded not guilty but had been convicted of the two Section 20 offences. He had also been prosecuted for other assault offences which had not been proceeded with as a result of his convictions in respect of the Section 20 offences. Ms Owens told the Committee that the Registrant had been given a six years and six months sentence, which was made up of a custodial period of three years and three months and a Licence period of three years and three months. In accordance with the Rules, Ms Owens submitted that the Certificate of Conviction was conclusive proof of the convictions and the underlying facts.

Findings of Fact

The Committee heard and accepted the advice of the Legal Adviser. He referred the Committee to Rule 4 (1) (d) and Paragraph 12 (5) and Paragraph 12 (7) of Schedule 2 of the Rules.

The Committee took into account the submissions from Ms Owens, and had careful regard to all of the documentary evidence contained in Exhibit 1. In particular, the Committee had regard to the Certificate of Conviction. The Committee was satisfied that the Certificate of Conviction was conclusive proof of the convictions so found and the underlying facts.

Accordingly, the Committee found the facts proved, in accordance with Rule 4 (1) (d) of the Rules.

Fitness to Practise

The Committee proceeded to consider whether the Registrant's fitness to practise was currently impaired by reason of his convictions.

The Committee heard submissions from Ms Owens, who advised that the Registrant had made no formal admission to the Particulars of the Allegation. She submitted that the Registrant's convictions called into question his ability to work in social care services and to remain on the Register without restriction, or to be registered at all. She referred the Committee to the Standards of Conduct and Practice for Social Care Workers which, in her submission, the Registrant had breached by reason of his convictions: Standards of Conduct and practice – 5 – 5.8.

Ms Owens referred the Committee to the Police interview contained within Exhibit 1 where the Registrant gave a no comment interview. She said the Registrant had shown no insight or remorse into his actions. The Registrant

had pleaded not guilty and had failed to engage with the Council throughout its investigation. Ms Owens stated that the Registrant's actions fell far below the standards expected from a social care worker who is entrusted with providing care for the most vulnerable people in society. Ms Owens also submitted that the Registrant, by his convictions, had brought the social care workforce into disrepute.

Ms Owens submitted that the Registrant had shown no insight and that there was a high risk of repetition. She also stated that a failure to make a finding of current impairment of the Registrant's fitness to practise would undermine public trust and confidence, and fail to declare proper standards of conduct and behaviour.

Ms Owens invited the Committee to make a finding of current impairment by reason of the Registrant's convictions.

The Committee considered the submissions from Ms Owens and had regard to all of the evidence in the case. The Committee heard and accepted the advice of the Legal Adviser. He 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 issue. In particular, he asked the Committee to take into account the nature and content of the criminal convictions against the Registrant, and reminded the Committee that it was being asked to determine whether the Registrant's fitness to practise is impaired by reason of those convictions. He referred the Committee to Paragraph 24 (3) of Schedule 2 of the Rules, and the guidance as set out in the case of GMC v Cohen. The Committee was charged with looking at the current competence and behaviour of the Registrant, along with the need to protect service users, members of the public, the upholding of proper standards of behaviour and maintaining of public confidence in the social care profession. He further referred the Committee to the formulation provided by Dame Janet Smith in her 5th Report to the Shipman Inquiry, which was cited with approval by Cox J in CHRE v NMC & Grant.

The Committee had regard to the Standards of Conduct and Practice for Social Care Workers and the Council guidance entitled 'Making a Determination of Impaired Fitness to Practise: Guidance for Committees on Remediation'. The Committee was satisfied that the Registrant's actions, as evidenced by his convictions, were in breach of the following Standards of Conduct:

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.

By his actions, as evidenced by his convictions, the Committee was satisfied that the Registrant had breached a fundamental tenet of the social care workforce and had brought the social care workforce into disrepute. The Committee had regard as to whether the Registrant would act in a similar manner in the future. The Committee considered that the Registrant's criminal behaviour was not easily remediable. The Committee addressed the question as to whether the Registrant had in fact remedied his criminal behaviour. There was no information or

evidence from the Registrant to demonstrate that he had developed any insight into the seriousness of the offences of which he had been convicted. Further, there was no evidence before the Committee to demonstrate that the Registrant had undertaken the necessary action to remedy his criminal behaviour. As a consequence, in light of there being no evidence of insight or remediation, the Committee concluded that there was a very high risk of the Registrant's criminal behaviour being repeated in the future. Accordingly, the Committee decided a finding of current impairment of the Registrant's fitness to practise, by reason of his convictions, was necessary to protect the public.

The Committee also concluded that a finding of current impairment of the Registrant's fitness to practise was also necessary to protect and uphold the public interest. The Committee was of the view that the public confidence in the social care workforce, and the Council as its regulator, would be undermined if a finding of current impairment was not made. Further, the Committee decided that a failure to make a finding of current impairment would fail to declare and uphold proper standards in the social care workforce.

For these reasons the Committee has decided that the Registrant's fitness to practise is currently impaired by reason of his convictions.

Sanction

The Committee carefully considered all of the available documentary material, together with Ms Owens' 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').

Ms Owens submitted that the Registrant's criminal behaviour was incompatible with the standards to be expected of a registered social care worker. She submitted that, given the seriousness of the Registrant's convictions and the significant degree to which, as a result, the Registrant had fallen below the standards to be expected of a registered social care worker, only a Removal Order would protect and uphold the public interest.

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 might 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 considered the aggravating and mitigating factors in this case.

The Committee considered the mitigating factors to be:

- The Registrant had a clear work record with no previous referrals to the Council.

The Committee considered the aggravating factors to be:

- The nature of the Registrant's convictions were of the utmost seriousness. The Registrant had been convicted of two serious assaults on innocent persons, one of whom was pregnant.
- The Registrant had made no admissions to the offence and made a no comment interview to the police.
- The Registrant had not acknowledged his failings or shown any remorse or insight.
- the Registrant had failed to engage with the Council and the Committee during these regulatory proceedings.

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

Warning – the Committee considered whether to impose a Warning in this case. Having regard to its findings, the Committee considered that such a step would be wholly inadequate to protect the public and would also fail to uphold the public interest.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Committee observed that such an Order would ordinarily be imposed in order to address failings in a registrant's practice. There were no such concerns in this case. The Committee could not formulate workable, enforceable or verifiable conditions which would address the Registrant's criminal behaviour and adequately protect the public. The Registrant's convictions related to serious criminal behaviour which had resulted in significant injuries to both of his victims. Given the seriousness of the Registrant's convictions, taken together with the fact that he was the subject of a prison sentence, the Committee concluded that a Conditions of Practice Order would be insufficient to protect the public and uphold the public interest.

Suspension – the Committee next considered a Suspension Order. The Committee noted that it had made findings at the fact and impairment stage of the proceedings which were of a very serious nature. The Registrant had been convicted of two crimes of violence which had resulted in significant injuries being caused to two innocent persons, one of whom was pregnant. The police statements of both were contained in the hearing bundle marked Exhibit 1. The first victim, who was the Registrant's ex-partner, stated *"myself and the children were standing on the other side of the road from the house, the children were just playing, I was holding my youngest daughter. I heard [the Registrant] speak, he called my name and then suddenly he hit me to the head, I don't even know what he hit me with, I must have been instantly knocked out, I don't remember anything else until I woke up in hospital days later...the injuries I sustained were significant, I have had a burst blood vessel in my brain, my skull was cracked in the middle and behind my right ear, I required emergency surgery and had to stay in the Intensive Care Unit... This incident has changed me deeply, I get nervous going to the shop on my own, it takes me longer to remember things, I have to think carefully when I speak to make sure I am saying the right thing... I don't know that I will ever fully recover from this awful incident."* The second victim stated *"...I was*

screaming, I think this brought [the Registrant's] attention to me, I was standing in the middle of the road and then he looked at me, he came towards me and swung the handrail, ... he struck me extremely hard on the right arm. He hit me twice and it was then that I realised he wasn't going to stop so I ran away...there has been a huge impact emotionally and mentally for me following this incident, I am currently living in fear, I am finding it difficult to sleep and I don't know how to process the feelings I have as result."

The Committee had no evidence before it of remediation by the Registrant, nor had it any information to indicate that the Registrant was remorseful or insightful into the serious harm which his actions had caused. The Registrant was found by the Committee to be likely to repeat his criminal behaviour in the future. The Registrant's criminal behaviour represented a serious departure from the standards to be expected of a registered social care worker. Further, the Registrant's actions, in the Committee's judgement, were fundamentally incompatible with continued registration.

Removal – the Committee, therefore, decided to impose a Removal Order. In so doing, the Committee took into account the Guidance at Paragraphs 4.26 – 4.28. It concluded that, given the seriousness of the Registrant's criminal convictions and his lack of insight and remediation, a Removal Order was the only appropriate and proportionate sanction which could be imposed that would protect the public and maintain public confidence in the social care workforce and the Council as its regulator. The Registrant's actions were deplorable, and constituted a very serious departure from the professional standards as set out in the Standards of Conduct and Practice for Social Care Workers. As such, the Committee was satisfied that the Registrant's actions were fundamentally incompatible with continued registration. The Committee also considered that public confidence in the social care workforce, and the Council as its regulator, would be undermined if a social care worker who was criminally convicted of grievous bodily harm, and who failed to show appropriate insight or remediation, was allowed to remain on the Register. The Committee also considered that a sanction short of a Removal Order would fail to declare and uphold proper standards of conduct and behaviour.

The Committee decided, in order to protect the public and in the public interest, to make a Removal Order, with immediate effect, in respect of the Registrant's registration.

The Committee also directed that the Interim Suspension Order currently in place should be revoked 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.

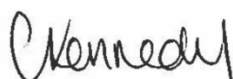
The effect of this decision is that your entry in the Register has been removed.

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

07 June 2022

Date