



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

Name: Chelsea Wilson

SCR No: 7021136

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **22 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 conviction;

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

Particulars of the Allegation:

That, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended):

- | | |
|-----|---|
| 1. | You were convicted on 16 February 2022 of the following offence at Craigavon Crown Court: |
| (i) | Defendant on the 8 th day of August 2020 assaulted [redacted] thereby occasioning her actual bodily harm contrary to Section 47 of the Offences Against the Person Act 1861 [Count 2]. |

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

Procedure:

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Registrant was not in attendance nor was she represented. The Council was represented by Mr Peter Carson, Solicitor, Directorate of Legal Services.

Service

The Fitness to Practise Hearing was originally listed for 08 June 2022. The Notice of Hearing and hearing bundle were sent to the Registrant's registered email address on 29 April 2022. Proof of delivery was received on the same date. The Registrant confirmed in an email, dated 05 May 2022, that she would be attending the hearing along with her Solicitor. The Registrant emailed the Council on 08 June 2022 and stated that she was unable to attend the Fitness to Practise Hearing. The Committee decided to adjourn the Fitness to Practise hearing on 08 June 2022 until 22 June 2022 to allow the Registrant to attend. The Registrant's solicitor and counsel were in attendance on the 08 June 2022 and a copy of the Committee's decision to adjourn the hearing was emailed to the Registrant and her Solicitor.

The Committee received legal advice from the Legal Adviser. She 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

Mr Carson made an application to proceed in the absence of the Registrant. He told the Committee that the Registrant emailed the Council on 21 June 2022 and stated that *"I don't want this hearing to go ahead tomorrow and I have made the decision to not take it any further"*. The Registrant's solicitor also emailed the Council on 21 June 2022 and stated that *"We have received firm instructions from our client that she no longer wishes to defend this matter and has withdrawn her instructions to act further"*. The Council acknowledged both the email from the Registrant and her Solicitor and advised that the Fitness to Practise Hearing would proceed as planned and reminded the Registrant that she had the right to attend. The Registrant's solicitor replied to the email and confirmed that the Registrant understood that the hearing could proceed in her absence. The Registrant responded on the morning of the hearing confirming that she would not be attending.

Mr Carson submitted that the Registrant's absence today was deliberate and that she had waived her right to appear or to be represented. The Registrant had stated that she would not be attending and had not sought a further adjournment. Mr Carson submitted that the matter had been delayed once to suit the Registrant and there was nothing to suggest that she would attend if it was delayed further. Mr Carson told the Committee that the Council accepted that the Registrant may be disadvantaged by not attending and giving evidence to the Committee. However, any disadvantage to her is outweighed by the public interest in the case proceeding.

The Committee heard and accepted the advice of the Legal Adviser. She referred the Committee to the cases of R v Jones and GMC v Adeogba. She reminded the Committee that in exercising its discretion to proceed in the Registrant's absence, it must have regard to all of the circumstances, with fairness to the Registrant being of prime consideration, although fairness to the Council and the public interest must also be taken into account.

She 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 email from Mr McCamley, the solicitor previously representing the Registrant, dated 21 June 2022, in which he confirmed that the Registrant did not wish to defend this matter and had withdrawn her instructions to act further. The Committee also noted the email from Mr McCamley on the same date, in which he confirmed the Registrant was aware that the Committee may proceed in her absence. The Committee considered the emails from the Registrant and noted that the Registrant had not asked for an adjournment and had stated that she had made the decision to not take it any further. In her email of 22 June 2022, the Registrant has made it clear that she will not be attending. The Committee concluded that the Registrant, with knowledge of the proceedings, had voluntarily absented herself from the hearing. The Registrant despite being absent has confirmed that she no longer wishes to be represented. There was no reason to suppose that an adjournment of the hearing would secure the Registrant's attendance at a later stage. The Committee was of the view that the public interest was strongly engaged in the case proceeding today. 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

The Committee accepted the bundle of documents into evidence and marked it as Exhibit 1. The Committee received a submission from Mr Carson to admit a Newspaper Article, dated 10 April 2022. The Committee heard and accepted the advice of the Legal Adviser. The Committee determined that it was both fair and relevant to admit the article and marked it as Exhibit 2.

Declarations of Conflict of Interest

The Chair of the Committee stated that all Committee Members have confirmed that they do not have any conflict of interest with the case.

Background

Mr Carson provided the Committee with a background to the case. He told the Committee that on 08 August 2020, the police attended a bar on Bridge Street, Portadown. The police observed a young female who was visibly upset with injuries to her face and neck. Security staff relayed to police that the Injured Party had been glassed in the ladies toilets and that the suspect (the Registrant) was still present in the premises. The injured party stated that while in the ladies toilets, the Registrant entered the toilets, a verbal argument ensued and the Registrant threw a glass which struck her on the head.

Mr Carson said that the police subsequently arrested the Registrant and she was taken into custody. He said that the Injured Party attended Craigavon Area Hospital and received paper stitches and presented with a blackened eye.

Mr Carson said that during a police interview on the same night of the incident, the Registrant did not make any admissions and the Registrant was released on bail until 20 August 2020 to allow police to conduct further enquiries. Over the course of this time, the Injured Party and two witnesses provided statements of the incident. The injuries alleged were one significantly bruised eye, a laceration to her cheek which required paper stitches and laceration to the neck which required a number of paper stitches.

Mr Carson told the Committee that the Registrant appeared in Court on 02 October 2021 for the offence of Assault Occasioning Actual Bodily Harm. The Registrant pleaded guilty to the offence of Actual Bodily Harm on 06 April 2022 and was sentenced to 12 months imprisonment, of which one month was custodial and a licence period of 11 months.

Evidence

Mr Carson referred the Committee to the Certificate of Conviction and the structured outline of the case, as provided by the PSNI. He noted that the structured outline of the case provided details around the incident which took place on 08 August 2020.

Mr Carson submitted that the Certificate of Conviction was conclusive proof of the Particulars of the Allegation against the Registrant, in accordance with Schedule 2 Rule 12 (5).

Finding of Facts

The Legal Adviser reminded the Committee that under Paragraph 12 (5) Schedule 2 of the Rules, a Certificate of Conviction issued in any UK Criminal Court 'shall be conclusive proof of the facts or convictions so found'. She advised the Committee that a registrant could challenge a Certificate of Conviction if it did not refer to the registrant, or where the conviction had been challenged successfully on appeal. She informed the Committee that it must be satisfied that the Certificate of Conviction in this case was issued by a competent Court of jurisdiction and, in the absence of any other evidence, the Committee was entitled to rely on the Certificate of Conviction to establish conclusively that the Registrant was convicted of the offence as set out. She also advised the Committee that the Certificate could also be relied upon to establish the facts underlying the convictions.

The Committee reminded itself that the burden was on the Council to prove the facts as set out in the Particulars of the Allegation, and that to find the facts proved the Committee must be satisfied on the balance of probabilities. This meant that for any fact to be found proved, the Committee had to be satisfied that it was more likely than not to have occurred.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise was impaired.

The Committee considered the submissions from Mr Carson on behalf of the Council and had regard to all of the evidence in the case. Mr Carson submitted that the Registrant's actions which led to the conviction calls into

question her ability to work in social care services, and to remain on the Register without restriction, or to be registered at all.

Mr Carson submitted that the reasons for impairment were clearly set out in the facts found proved. There was clear evidence of the conviction.

Mr Carson directed the Committee to the Standards of Conduct for Social Care Workers and stated that the Council's position was that the Registrant's actions are in breach of Standard 5:8, which is relevant whether her actions took place inside or outside of the workplace.

In terms of remediation, Mr Carson accepted that the Registrant did plead guilty to the offence. However, he submitted that there was no actual evidence that she had remediated her impairment. With regard to the risk of repetition, Mr Carson submitted that the Council remained concerned that there was a risk of repetition of this behaviour towards others in the future.

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

The Committee accepted the advice of the Legal Adviser. She referred the Committee to Paragraph 24 (3) 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, members of the public, the upholding of proper standards of behaviour and maintaining of public confidence in social care services. 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 [2001] EWHC 927.

The Committee considered whether the Registrant's fitness to practise was impaired by reason of her conviction 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 had regard to Rule 4 (d) of the Rules, which states that fitness to practise may be impaired by a conviction. The Committee was satisfied that the Registrant's conviction was the reason for the alleged impairment of fitness to practise.

The Committee had regard to the Standards of Conduct and Practice for Social Care Workers. The Committee was satisfied that the Registrant's actions were in breach of the following Standards of Conduct:

Standard 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

The Committee carefully considered whether the conviction of actual bodily harm could ever be remediated and determined that although it was a serious conviction it could be remediated. However, the Committee had no evidence that any of these issues had been remediated by the Registrant. The Registrant had not attended or put anything in writing.

The Committee had no evidence of insight on the part of the Registrant, remorse on the part of the Registrant, regret for how she had acted in the past or evidence of how she would act differently in the future.

Although the events which led to the conviction occurred prior to the Registrant working as a social care worker, the Committee was concerned that there remains a risk of repetition both outside of work and in work. As a social care worker, the Registrant could be working with vulnerable individuals with challenging behaviours. The Committee noted that during her police interview when the Registrant was asked about the events on the evening of the 08 August 2020, she told the police that "*if someone says something to me, I will say something back*". This caused the Committee concern that there was a risk of repetition in the workplace. The Committee was in particular concerned that the Registrant could respond inappropriately to a vulnerable person in challenging circumstances. Without any evidence from the Registrant addressing how she has reflected on the events that occurred, how she has changed her life as a result of her conviction and how she has mitigated against the risk of similar behaviour either inside or outside of the work, the Committee found that a risk of repetition remained.

The Committee concluded that a finding of current impairment of fitness to practise was also necessary in the public interest. The nature of the Registrant's convictions mean that the public interest is engaged in this case. The Committee noted the content of the newspaper article and accepted the submission of Mr Carson that this article which is available in the public domain, demonstrates that the public interest was engaged. In the view of this Committee, this was a very serious offence and the Registrant received a custodial sentence, and she is still on licence. The Committee concluded that public confidence in social care services, and the Council as its regulator, would be undermined if a finding of impaired fitness to practise was not made.

Therefore, the Committee concluded that the Registrant's fitness to practise is currently impaired by reason of her criminal conviction.

Sanction

In reaching its decision on sanction, the Committee considered the submission of Mr Carson on behalf of the Council.

The Committee accepted the advice from the Legal Adviser. She referred the Committee to the Indicative Sanctions Guidance, and reminded the Committee to consider the question of sanction in ascending order of severity, paying particular attention to the issue of proportionality.

She referred the Committee to Paragraph 26 of Schedule 2 of the Rules which provides that, upon a finding of impairment of fitness to practise, the Committee may:

- (a) impose no sanction; or
- (b) warn the Registrant and direct that a record of the warning should be placed on the Registrant's entry in the Register for a specified period of up to 5 years; or
- (c) make a Conditions of Practice Order for a specified period not exceeding 3 years; or
- (d) make an Order suspending the Registrant's registration for a specified period not exceeding 2 years (a 'Suspension Order'); or
- (e) make an Order for removal of the Registrant's registration from the Register ('a Removal Order').

She further reminded the Committee that in deciding which sanction to impose, the Committee should take into account:

- (a) the seriousness of the Particulars of the Allegation;
- (b) the degree to which the Registrant has fallen short of any expected standards;
- (c) the protection of the public;
- (d) the public interest in maintaining confidence in social care services; and
- (e) the issue of proportionality.

The Committee applied the principles of fairness, reasonableness and proportionality, weighing the public interest with the Registrant's interests, and took into account any aggravating and mitigating factors in the case. The public interest included the protection of members of the public, including service users, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour within the profession. The Committee took into account its powers under Paragraph 26 of Schedule 2 of the Rules in relation to the sanctions available to it, and also had regard to the Indicative Sanctions Guidance, bearing in mind that the decision on sanction was one for its own independent judgement.

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

The Committee considered the mitigating factors to be:

- The Registrant has the benefit of previous good character and in particular the Committee noted that no issues have been raised about her work as a social care worker;
- The Registrant did plead guilty at her second arraignment, although no admissions were made prior to this; and
- The offence was committed outside of work

The Committee considered the aggravating factors to be:

- This was a conviction for a violent crime which ultimately had a significant impact on the victim and resulted in a custodial sentence for the Registrant;
- Her actions were premeditated, albeit with a short premeditation;
- The Registrant has demonstrated no insight;
- There is no evidence of regret or remorse;
- The Registrant has shown a serious disregard for the Social Care Council's Standards of Conduct and Practice; and
- The Registrant's actions fell very far below the standards which could be expected of a registered social care worker.

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.

No sanction- the Committee was in no doubt that it would not be appropriate or proportionate to impose no sanction, given the seriousness of the case.

Warning – the Committee considered whether to impose a Warning in this case. Having regard to its findings, the Committee considered that in light of the lack of insight, remediation and remorse a Warning would not be appropriate. Furthermore, a Warning would be inadequate to protect the public.

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 another person. Given the seriousness of the Registrant's convictions, taken together with the fact that she had been the subject of a custodial 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 a violent crime which had resulted in significant injuries being caused to another person. Despite granting an adjournment on 08 June 2022 to allow the Registrant to attend, 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 her actions had caused. The Registrant was found by the Committee to be likely to repeat her 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 conviction and her 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 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 actual 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.

You have the right to appeal this decision to the Care Tribunal. Any appeal must be lodged in writing within 28 days from the date of this Notice of Decision.

You should note that the Fitness to Practise Committee's decision takes effect from the date upon which it was made.

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

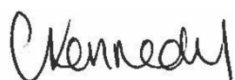
You are prohibited from working as a social care worker in any of the following positions:

1. A member of care staff at a:
 - a.) Children's home;

- b.) Residential care home;
 - c.) Nursing home;
 - d.) Day care setting;
 - e.) Residential family centre.
2. A person who is supplied by a domiciliary care agency to provide personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
3. A manager of a:
- a.) Residential care home;
 - b.) Day care setting;
 - c.) Residential family care centre; or
 - d.) Domiciliary care agency.

It is **compulsory** for the above social care workers to be registered with the Northern Ireland Social Care Council in order to work. This is pursuant to the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013 and the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers (Amendment) Regulations (Northern Ireland) 2017.

In accordance with Schedule 3, Paragraph 9 of the NISCC Fitness to Practise Rules, you may not apply to be restored to the Register within five years from the date of removal. This does not affect your right to appeal the Committee's decision to the Care Tribunal. You are prohibited from working in a social care role until a successful application for restoration onto the Register has been made to the Council.



Committee Clerk

28 June 2022

Date