



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

Name: Robert Ewings

SCR No: 6007156

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **01 August 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, whilst being registered as a social care worker, under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you were convicted at the Crown Court of the offences as set out below:

A.	On 25 May 2021, you were convicted of the offences in respect of the allegations at 1 - 4 below:
1.	Count 1: [You], between 6th May 2020 and 31st July 2020, being a person aged 18 or over, for the purpose of obtaining sexual gratification intentionally communicated with [REDACTED] a person under 16, the communication being sexual or intended to encourage the said [REDACTED] to make a communication that was sexual, and you did not reasonably believe that HER was 16 or over, contrary to Article 22A of the Sexual Offences (Northern Ireland) Order 2008.
2.	Count 3: [You] on the 26th day of July 2020, being over 18 years of age, intentionally engaged in a sexual activity for the purpose of obtaining sexual gratification when [REDACTED], a child under 16 years was present or in a place from which you could be observed and you knew or believed that her was aware, or intended that she would be aware, were so engaged and did not reasonably believe her to be aged 16 or over, contrary to Article 18 of the Sexual Offences (Northern Ireland) Order 2008.
3.	Count 4: [You] on a date unknown between the 6th day of May 2020 and the 31st day of July 2020, being

	over 18 years of age, intentionally engaged in a sexual activity for the purpose of obtaining sexual gratification when [REDACTED], child under 16 years was present or in a place from which you could be observed and you knew or believed that her was aware or intended that she would be aware, were so engaged and did not reasonably believe her to be aged 16 or over, contrary to Article 18 of the Sexual Offences (Northern Ireland) Order 2008.
4.	Count 7: [You] on a date unknown between the 6th day of May 2020 and the 29th day of July 2020, had in your possession an indecent photograph or pseudo-photograph of a child, namely [REDACTED], contrary to Article 15 (1) of the Criminal Justice (Evidence etc) (Northern Ireland) Order 1988.
B.	And that on 18th June 2021, you were convicted of the offences in respect of the allegations at 5 - 8 below:
5.	Count 2: [You] on the 16th day of July 2020, being over 18 years of age, intentionally incited [REDACTED] a child under 16 years, to engage in a sexual activity and you did not reasonably believe that she was 16 years or over, contrary to Article 17(1) of the Sexual Offences (Northern Ireland) Order 2008.
6.	Count 5: [You] on the 24th day of July 2020, being over 18 years of age, intentionally incited [REDACTED] a child under 16 years, to engage in a sexual activity and you did not reasonably believe that she was 16 years or over, contrary to Article 17(1) of the Sexual Offences (Northern Ireland) Order 2008.
7.	Count 9: [You] on the 27 July 2020, being a person aged 18 or over, for the purpose of obtaining sexual gratification intentionally communicated with [REDACTED] a person under 16, communication being sexual or intended to encourage the said [REDACTED] to make a communication that was sexual, and you did not reasonably believe that she was 16 or over, contrary to Article 22A of the Sexual Offences (Northern Ireland) Order 2008.
8.	Count 10: [You] on a date unknown between 29 July 2020 and the 5th day of September 2020, obstructed [REDACTED], a Constable in the execution of her duty, contrary to Section 66 (1) of the Police (Northern Ireland) Act 1998.
And your actions as set out above show that your fitness to practise is impaired by reason of your convictions.	

Procedure:

The hearing was held under the fitness to practise procedure.

Preliminary Matters

Service

Ms Owens told the Committee that as the Registrant is currently serving a custodial sentence, the Notice of Hearing and hearing bundle were sent by special delivery post to the Registrant at Maghaberry Prison on 16

June 2022. The Registrant received and signed for the Notice of Hearing and hearing bundle on 17 June 2022. An officer from Maghaberry Prison emailed the signed proof of delivery document to the Council on 20 July 2022. The Committee received legal advice from the Legal Adviser, she referred the Committee to the requirements as set out in the Northern Ireland Social Care Council's Fitness to Practise (Amendment) Rules 2019 ('the Rules') and, in particular, Rule 3, which states that proof of service shall be treated as being effected on the day after it was properly sent. The Committee took into account that the Notice of Hearing provided details of the date and time of the hearing and that it was to be held virtually. In addition, it contained information about the Registrant's right to attend, be represented and call evidence, as well as the power to proceed in his absence.

The Committee, in all of the circumstances of the case, was satisfied that the Notice of Hearing had been served in accordance with Rule 3 of the Rules, and the requirements of Paragraph 5 of Schedule 2 of the Rules and that reasonable efforts had been made to inform the Registrant of the hearing today.

Proceeding in the Absence of the Registrant

Ms Owens made an application to proceed in the absence of the Registrant under Paragraph 15 of Schedule 2 of the Rules, and submitted that the Committee should hear and determine the case in his absence. Ms Owens referred the Committee to the proof of delivery document which was signed by the Registrant confirming receipt of the Notice of Hearing and hearing bundle. She invited the Committee to conclude that the Registrant's absence and lack of engagement with the Council was a voluntary waiver of his right to attend. She further suggested that it was in the public interest for the case to proceed, as this would ensure a fair and expedient disposal of the hearing.

The Committee was mindful that the discretion to proceed in the absence of the Registrant should only be exercised with the utmost care and caution. In considering the application, the Committee sought to satisfy itself that all reasonable efforts had been made to notify the Registrant of the hearing, and accepted the advice of the Legal Adviser. She referred the Committee to the cases of R v Jones 2003 1 AC, Adeogba and Visvardis v GMC 2016. 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.

In reaching its decision, the Committee had particular regard to the factors as set out in the case of R v Jones 2003 1 AC and noted that:

- The Registrant received and signed for the Notice of Hearing and hearing bundle;
- The Registrant had not made an application for an adjournment;
- There has been no engagement from the Registrant. There was no reason to suppose that adjourning the case would secure his attendance at a future date;

- The Registrant had not sought to be legally represented;
- The Notice of Hearing provided details of the allegation, the time, date and method of the hearing and, amongst other things, information about the Registrant's right to attend, be represented and call evidence, as well as the Committee's power to proceed in his absence. The Committee noted that the Registrant is currently serving a custodial sentence but a virtual hearing could be facilitated by the prison at the request of the Registrant. The Committee, therefore, concluded that the Registrant's absence was deliberate and a waiver of his right to appear; and
- There was a strong public interest in the expeditious disposal of this case.

The Committee concluded that whilst there is some disadvantage to the Registrant in proceeding in his absence, the Committee can make allowance for the fact that the Council's evidence will not be tested by him and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of the Registrant's decision to voluntarily absent himself from the hearing.

Therefore, after careful consideration of all of the issues, the Committee decided to exercise its discretion to proceed in the absence of the Registrant, striking a careful balance between fairness to the Registrant and the wider public interest. However, the Committee reminded itself that it must avoid reaching any improper conclusion about the Registrant's absence.

Application to Admit Hearing Bundle

The Committee accepted the bundle into evidence, and marked it as Exhibit 1.

Declaration of Conflict of Interest

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

Background

Ms Owens told the Committee that the Registrant was first registered on 12 August 2015, on Part 2 of the Register, as a Day Care Worker. He was employed as a day care worker for adults with learning disabilities with the Western Health and Social Care Trust.

Ms Owens told the Committee that an Employer Referral Form ('ERF') was received from the Western Health and Social Care Trust ('the Trust'), dated 17 August 2020. The Trust stated that it was made aware of the matter by the PSNI of a child safeguarding concern regarding the Registrant's inappropriate involvement with a 15 year old child. The ERF confirmed that the Registrant was a day care worker, working with the adult learning disability group, a post he had held for six years.

Ms Owens stated that the allegations in this case relate to concerns about the Registrant's alleged criminal behaviour, disclosed by way of a Common Law Disclosure by the PSNI, dated 23 September 2020. The PSNI

disclosed that criminal allegations had been made against the Registrant, resulting in him being interviewed by the PSNI, who were investigating allegations of:

- Sexual communications with a child;
- Possession of an indecent image of a child;
- Adult engaging in sexual activity in the presence of a child;
- Adult causing a child between 13 - 16 to watch a sexual act;
- Adult causing a child between 13 - 16 to engage in sexual activity.

Ms Owens submitted that the disclosure by the PSNI on 23 September 2020 was based on their assessment, described as 'a pressing social need' and 'an identified risk that needs to be managed'. The PSNI disclosed that the Registrant had been arrested and interviewed, and that the Registrant made admissions during interview.

Evidence

Ms Owens submitted that it was the Council's case that the Registrant's fitness to practise is impaired by reason of his convictions. She directed the Committee to the evidence contained within the hearing bundle, and submitted that the Council sought to rely on this evidence to prove the case.

Ms Owens asked the Committee to pay careful attention to the certificate of conviction contained within the bundle of evidence. She submitted that this document provided evidence that the Registrant pleaded guilty on 25 May 2021 to four offences and pleaded guilty to a further four offences on 18 June 2021. On 10 September 2021, he was sentenced to:

- 12 months custodial sentence and a licence period of 12 months.
- Disqualification Order – disqualified from working with Children
- Sex Offenders Registration required for a period of 10 years
- Sexual Offences Prevention Order

The certificate of conviction also records that the Court informed the Registrant that the Independent Safeguarding Authority may include him in the Adult & Children's barred list as required under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

Ms Owens submitted that the certificate of conviction was conclusive proof of the facts, and that the Council had discharged the burden of proof in establishing the facts in this case.

Finding of Facts

The Legal Adviser reminded the Committee that under Paragraph 12 (5) of Schedule 2 of the Rules, a certificate of conviction issued in any UK Criminal Court '*shall be conclusive proof of the facts or conviction so found*'. She advised the Committee that a registrant could challenge a certificate of conviction if it did not refer to them 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 that, 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 offences as set out in the Particulars of the Allegation. She also advised the Committee that the certificate of conviction could 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 means that for any fact to be found proved, the Committee must be satisfied that it is more likely than not to have occurred.

The Committee took into account the submissions from Ms Owens on behalf of the Council, and had careful regard to all of the documentary evidence submitted. The Committee noted the facts contained in the certificate of conviction. The Committee concluded that the certificate of conviction was conclusive proof of the convictions. The Committee, therefore, found the facts proved.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise is impaired. The Committee considered the submissions from Ms Owens on behalf of the Council, and had regard to all of the evidence in the case. Ms Owens submitted that the Registrant's fitness to practise is impaired as a result of his convictions.

Ms Owens referred the Committee to the Standards of Conduct and submitted that the Registrant's conduct which led to his convictions was in breach of Standard 5; 5.8. Ms Owens directed the Committee to the decision of CHRE V Grant which is a 2011 case and submitted that this case established that the level of insight is central to any determination on remediation. She submitted that the Registrant has shown no insight or remorse for his actions. Although the Registrant made admissions in his police interview and did plead guilty, he has not engaged with the Council to demonstrate insight, remorse or an acceptance that his actions were fundamentally wrong. In respect of the risk of repetition, Ms Owens submitted that the Council remains concerned that a risk of repetition remains.

Ms Owens submitted that the public should have confidence in the Council as a regulator to protect the public and to ensure that those who care for the most vulnerable in society uphold proper standards of behaviour. She submitted that any option other than a finding of current impairment would impact on public confidence in the Council and the social care services.

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, 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 convictions for serious offences constituted the reason for the alleged impairment of fitness to practise. The convictions related to a number of sexual offences against a person under the age of 16 and in the view of the Committee, call into question the Registrant's suitability to work in social care services without restriction or at all.

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 noted the Registrant's conviction for sexual offences involving a child. The Committee concluded that these were very serious convictions and that the Registrant acted in a way that fell significantly short of the expected standard of a registered social care worker. The Committee was in no doubt that the Registrant's conduct had breached the fundamental tenets of social care services and therefore brought its reputation into disrepute. The Committee had no evidence that the Registrant would behave any differently in the future.

After careful consideration the Committee determined that the Registrant's conduct which led to his convictions, was not capable of remediation. In reaching this decision, the Committee took into account the guidance issued by the Council for Committee's dealing with the issue of impairment and in particular paragraph 2.5 and 2.6:

2.5 In some cases, the behaviour of the Registrant will fall so far short of what is acceptable, and risks undermining public confidence in the profession, that it is simply not capable of being 'remedied', even where a direct on-going risk to the public cannot be readily identified. Examples of such allegations may include:

- *Criminal convictions that result in a custodial sentence;*
- *Inappropriate personal or sexual relationships with a service user or other vulnerable person, or other sexual misconduct;*
- *Dishonesty, particularly where serious and sustained over a period of time and / or linked to the Registrant's practice;*
- *Violence; and*
- *Neglect or abuse of service users, whether physical or verbal.*

2.6 In such cases, it will be difficult for a Registrant to demonstrate that they have remedied the concerns. For example, it is unlikely that such behaviour will be satisfactorily addressed by participating in a training course or through supervision at work.

The Committee noted that the Registrant made admissions during the police interview and pleaded guilty to the charges found against him. However, the Committee had no information before it to show that the Registrant acknowledged the impact of his behaviour. The Committee had no evidence to suggest that the Registrant would act differently in the future. Accordingly, the Committee found there to be a risk of repetition.

The Committee noted that in addition to a 24-month sentence (12 months custodial and 12 months on licence) the Court imposed a Disqualification Order (Children), Registration on the Sex Offenders Register for a period of 10 years, a Sexual Offences Prevention Order and the Court informed the Registrant that he may be included in the Adult & Children's barred list as required under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007. The Committee concluded that the Registrant's convictions brought social care services into disrepute and that the public would find it totally unacceptable that a Registrant convicted in these circumstances and serving a custodial sentence, was not found to be currently impaired.

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

Sanction

In reaching its decision on sanction, the Committee considered the submission from Ms Owens on behalf of the Council, and had regard to all of the evidence in this case. Ms Owens referred the Committee to various mitigating and aggravating factors, and the NISCC Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance').

Ms Owens, in the absence of the Registrant, suggested mitigating factors as follows:

- The Registrant had no previous disciplinary record with the Council;
- The Registrant made admissions to the police and pleaded guilty.

Ms Owens suggested the aggravating factors as follows:

- The Certificate of Conviction refers to extremely serious charges of sexual offences;
- The Injured Party was a child and therefore a vulnerable person;
- The conviction shows a course of action which took place over a prolonged period of time;
- The Registrant communicated with his victim whilst at work and in his work uniform;
- The Registrant tried to dispose of his phone and conceal his wrongdoing; and
- He has not engaged with the Council and provided no evidence of insight or remorse.

As regards to sanctions, Ms Owens submitted that the only appropriate sanction would be that of removal. She submitted that the criminal conviction against the Registrant was of the utmost seriousness and was not at the lower end of the spectrum. She submitted that the Registrant's criminal behaviour was fundamentally incompatible with his continuing registration as a social care worker. In particular, she said that as there was no evidence of remediation, the public confidence in the social care sector would be undermined if the Registrant was allowed to remain on the Register. She noted that, in addition to a lengthy period of imprisonment, the Registrant is to be placed on the Children's Barred List and also on the Sex Offenders Register. Ms Owens submitted that the continued registration of a registrant with such serious convictions would have a devastating impact on public confidence in the profession. She referred the Committee to the Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance') and in particular Paragraph 4.62 – 5.5. She submitted that the only proportionate and appropriate sanction was a Removal Order and that the Registrant's conviction for sexual offences constituted a serious departure from the relevant professional standards as set out in the Standards of Conduct and Practice for Social Care Workers.

The Committee accepted the advice of the Legal Adviser. She referred the Committee to the 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 taking into account any aggravating and mitigating factors in the case. The public interest includes 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 Guidance, bearing in mind that the decision on sanction is one for its own independent judgement.

The Committee recognised that the purpose of sanction was not to be punitive, although a sanction may have a punitive effect. The Committee considered the aggravating and mitigating factors in this case.

The Committee considered the mitigating factors to be:

- The Registrant had no previous concerns with the Council or his employer;
- The Registrant made admissions during his police interviews and pleaded guilty to the majority of criminal charges made against him; and
- The offences did not relate to his duties as a social care worker and no harm was caused to a service user.

The Committee considered the aggravating factors to be:

- The Registrant has been convicted of eight charges of extremely serious sexual offences involving a vulnerable child;
- The Registrant was aware that the Injured Party was fifteen and not eighteen;
- The offences took place over a lengthy period of time. The Registrant was in communication with the victim for a period of seven months;
- The Registrant admitted to the police that he threw his mobile phone into the river. This was an attempt to conceal his wrongdoing;
- The Registrant has not engaged with these proceedings or co-operated with the Council investigation; and
- There was no evidence of insight, regret or remorse from the Registrant.

Having balanced the aggravating and mitigating factors, the Committee then considered which sanction to apply in this case.

No sanction - the Committee had no doubt that it would be entirely inappropriate and completely disproportionate to impose no sanction in this case. To impose no sanction would be inappropriate in view of the seriousness of the criminal conviction and would not address the concerns identified.

Warning - the Committee considered the issue of a Warning in this case. The Committee considered that the Registrant's criminal conviction, for which he was currently serving a custodial sentence for sexual offences, demonstrated a serious disregard for the Standards of Conduct and Practice for Social Care Workers. The Registrant's impairment of fitness to practise was not at the lower end of the spectrum, nor were the circumstances such that the Committee would be confident that this sanction would provide adequate public protection as far as the Registrant's suitability was concerned, bearing in mind that a Warning would entitle the Registrant to work unrestricted as a social care worker. The Committee noted that there was no evidence before it as regards the Registrant's remorse or insight into his behaviour and its impact on the Injured Party. Therefore, a Warning would not be appropriate or proportionate to the serious nature of the convictions in this case.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Committee noted the Guidance at Paragraph 4.13, which states that conditions may be appropriate in cases involving particular areas of a registrant's performance and where a committee is satisfied that a registrant had displayed insight into their failings, and that there is potential for that registrant to respond positively to remediation, re-training or supervision of their work. The Registrant has demonstrated no insight into his criminal actions. The Registrant is currently serving a custodial prison sentence and has been barred from working with children and must sign the Sex Offenders Register. Therefore, the Committee concluded that a Conditions of Practice Order was not sufficient to meet the public interest in this matter, given the seriousness of the Registrant's departure from the standards expected of a registered social care worker. In these circumstances, the Committee could not formulate workable, enforceable, or verifiable conditions which would address the Registrant's criminal behaviour and adequately protect the public.

Suspension – the Committee next considered a Suspension Order. The Committee noted that the criminal conviction of the Registrant was of an extremely serious nature relating to sexual offences involving a child. The Committee took into account the guidance at Para 4.19 which states: 'Suspension from the Register may be an appropriate sanction for impairment which while very serious, is not so serious as to justify removal from the Register; for example, where there has been an acknowledgment of failings and where a Committee is satisfied that the behaviour is unlikely to be repeated'.

The Committee considered that the Registrant's criminal convictions evidenced behaviour that was fundamentally incompatible with registration as a social care worker. The Committee determined that a Suspension Order would not address the risk of repetition as identified above or the public interest. The Committee had no evidence of insight or remediation from the Registrant, nor had it any information to indicate

that the Registrant is unlikely to repeat his criminal behaviour in the future. The Committee considered that the public would view the Registrant's criminal behaviour as falling far below what would be expected of a registered social care worker. In all of the circumstances, the Committee concluded that a Suspension Order would not be sufficient to mark the seriousness and unacceptable nature of the Registrant's criminal convictions.

Removal – the Committee next considered a Removal Order. The Committee noted 4.3 of the Indicative Sanction Guidance which reads as follows:

4.3 The level of seriousness of the impairment will be a very significant factor in determining the sanction to be imposed.

The Committee also took into account the guidance at Para 5 – 5.6 as follows:

5. Examples of Impairment Relevant to the Sanction of Removal

5.1 There are some examples of impairment where the Privy Council has upheld decisions to remove individuals from other statutory registers despite strong mitigation. This is because it would not have been in the public interest to do otherwise, given the circumstances concerned. The three most serious areas of concern are:

- *sexual misconduct;*
- *dishonesty;*
- *failing to provide an acceptable level of care.*

5.2 Whether removal from the Register is appropriate in cases of this kind will depend on the particular facts of each case and other relevant factors.

5.3 However, the safety of people who use services and their right to protection from neglect and abuse is more important than the fortunes of any individual Registrant.

Sexual Misconduct

5.4 Sexual misconduct encompasses a wide range of conduct and can include, but is not limited to criminal convictions for sexual assault and sexual abuse of children (including child abuse images), sexual abuse of vulnerable adults, sexual misconduct with people who use services, their carers and relatives, or with colleagues. The misconduct is particularly serious however, where there is an abuse of the special position of trust that a Registrant occupies, or where a Registrant is subject to notification requirements as a sex offender.

5.5 The risk to people who use services is an important consideration. In such cases, removal from the Register has been judged the appropriate sanction to uphold public confidence in social care services. In these cases, removal from the Register was not found to be unreasonable, excessive or disproportionate, but necessary in the public interest.

5.6 *A Committee should take account of the serious effect continued registration of those convicted of sexual offences has on the public and service users. Such offenders will include those who are subject to notification requirements as a sex offender, that is those convicted of an offence listed in Schedule 3 to the Sexual Offences Act 2003 and who are required to notify the police under section 80 of that Act. Continued registration of individuals convicted and/or subject to notification requirements can seriously undermine public trust.*

The Committee concluded that given the seriousness of the Registrant's criminal conviction and his lack of insight, a Removal Order was the only sufficient sanction. The Committee had already determined that the behaviour which led to the Registrant's convictions could not be remediated. The Committee determined that the Registrant's behaviour was fundamentally incompatible with being a registered social care worker. In all of the circumstances, the Committee concluded that a Removal Order was the only sanction available to it to protect the public and to meet the public interest and to mark the seriousness and unacceptability of the Registrant's criminal behaviour. The Committee considered the potential impact of a Removal Order on the Registrant, but concluded that the protection of service users and wider public interest in the system of regulation outweighed the impact on the Registrant.

The Committee concluded that a Removal Order was the only suitable, appropriate, and proportionate sanction which will be imposed on the Registrant's registration 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.

C. Kennedy

03 August 2022

Committee Clerk

Date