



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

Name: Sarah Catherine Vance

SCR No: 7003955

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **01 September 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, 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 Magistrates' Court on 01 April 2022 of the following offence:

1. That [you] on 28th day of June 2019 stole cash to the total value of £150 belonging to [Service User 1] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.

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

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Registrant was neither present nor represented. The Council was represented by Mr Anthony Gilmore, Solicitor, Directorate of Legal Services.

Service

The Notice of Hearing and hearing bundle were sent to the Registrant's registered email address on 20 July 2022. A proof of delivery receipt was received on the same date.

The Committee received legal advice from the Legal Adviser, and he referred the Committee to the requirements as set out in the Northern Ireland Social Care Council's ('the Council') Fitness to Practise (Amendment) Rules 2019 ('the Rules') and, in particular, Rule 3 which states that proof of service shall be treated as having been effected on the day after it was electronically mailed.

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 and Paragraph 5 of Schedule 2 of the Rules.

Proceeding in the Absence of the Registrant

Mr Gilmore 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 her absence. He invited the Committee to conclude that the Registrant's absence was a voluntary waiver of her right to attend. He outlined to the Committee that on 23 August 2022, the Committee Clerk had attempted to call the Registrant and that the registered telephone number was invalid. The Council emailed the Registrant on 23 August 2022 to confirm if she would be attending the hearing, and also to provide up to date contact details where she could be contacted by telephone. Mr Gilmore told the Committee that the Registrant had not responded to that email or any communication from the Council regarding the hearing. In light of this information, Mr Gilmore submitted that, in all of the circumstances, it was fair to proceed with the hearing in her absence. He further submitted that proceeding in the Registrant's absence was in the public interest, and also was justified to ensure the timely 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. 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 weighed in the balance. 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 the attempts to contact the Registrant by both telephone and email, and that the Registrant had not responded to any communication from the Council. Accordingly, the Committee was satisfied that the Registrant, with notice of the hearing, had voluntarily waived her right to attend. There was no reason to suppose that an adjournment of the hearing would secure the Registrant's attendance at a later date. In addition,

the Committee noted the serious nature of the allegation faced by the Registrant, and concluded that the public interest was strongly engaged in this case.

For these reasons, the Committee considered that it was fair and appropriate to proceed in the absence of the Registrant.

Application to Admit Hearing Bundle

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

Declarations of Interest

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

Background

Mr Gilmore told the Committee that the Registrant was first registered with the Council on 04 July 2019 as a social care worker. He said that she began work with Optimum Care ('Optimum') on 03 November 2018 as a social care worker, and became a senior carer with Optimum in April 2019.

Mr Gilmore told the Committee that the Registrant came to the Council's attention by way of an Employer Referral Form ('ERF') from Optimum Care, dated 26 August 2019. The ERF stated that on 28 June 2019, a service user gave a large sum of money – later confirmed to be £150 in cash - to two care workers. The care workers could not accept any gift of this nature and brought the matter to the attention of their employer. As senior care worker, the Registrant was asked by Optimum to return the money to the service user, and request that he sign the envelope to confirm receipt of the money. Subsequent enquiries suggested that the service user had not had the money returned to him, and a relative of the service user made a report to that effect to Optimum and the PSNI. The Registrant was placed under joint investigation by the Northern Health and Social Care Trust and the PSNI.

The Registrant was interviewed under caution by police, in the presence of a solicitor, on 26 September 2019. Her case during interview was that she had attended the service user's home as requested, and returned the money to the service user. She stated that the service user had signed her envelope to confirm receipt of the money returned to him. An envelope purporting to contain the service user's signature was produced during the interview. At the time, the service user was 93 years of age. An assessment conducted upon the service user confirmed that he had full capacity. The service user was adamant that the Registrant had not called out with him to return the money in question, and denied that the signature on the envelope was his.

The Council received a disclosure from the PSNI on 06 October 2019, which disclosed that the Registrant was interviewed by the police on 26 September 2019, and that she denied the allegation and continued to work in social care.

The Registrant emailed the Council on 09 March 2020, and informed the Council that she was no longer working in social care. The Council received an email on 18 March 2020 from the PSNI, advising that the Public Prosecution Service ('PPS') had directed a prosecution on 02 March 2020.

Mr Gilmore told the Committee that the Registrant had pleaded guilty at the Magistrates' Court on 18 February 2022 to a charge of theft, in that she had stolen £150 from the service user. On 01 April 2022, the Registrant received a Probation Order for a six month period.

Evidence

Mr Gilmore directed the Committee to the evidence contained within the hearing bundle and, in particular, the Certificate of Conviction. He submitted that the Council sought to rely on the Certificate as conclusive proof that the Registrant had been convicted of the offence which was set out in the Allegation.

Finding of Facts

The Committee took into account the submissions made on behalf of the Council, and heard and accepted advice from the Legal Adviser. In accordance with Paragraph 13 of Schedule 2 of the Rules, the burden of proving the facts set out in the Allegation rested upon the Council. In addition, Paragraph 12 of Schedule 2 of the Rules specified the approach which the Committee should take when considering this Allegation. The Committee was advised that the Certificate of Conviction should be treated as conclusive proof of the conviction and the facts underlying the conviction. The Registrant could rebut that presumption only where she could show that she was not the person named on the face of the Certificate, or that she had successfully appealed her conviction to a court of competent jurisdiction.

The Committee then considered the Allegation.

Particular 1: That [you] on 28th day of June 2019 stole cash to the total value of £150 belonging to [Service User 1] contrary to Section 1 of the Theft Act (Northern Ireland) 1969.

Applying the provisions of Paragraph 12 of Schedule 2 of the Rules, the Committee was satisfied that the Certificate of Conviction presented by the Council in respect of the Registrant was such as to prove conclusively that she had been convicted as set out. The Registrant had not presented any evidence to rebut that presumption.

Fitness to Practise

Mr Gilmore made a submission to the Committee on the question of the Registrant's current fitness to practise. Mr Gilmore submitted that the Registrant's actions, which led to her criminal conviction, called into question her suitability to work in social care services and to remain on the Register without restriction, or to be registered at all.

Mr Gilmore submitted that the Registrant's actions constituted serious wrongdoing on her part. He referred the Committee to breaches of the Standards of Conduct and Practice for Social Care Workers by the Registrant and, in particular, Standards 1.2, 2.1, 5.1, 5.3 and 5.8.

The Committee heard and accepted the Legal Adviser's advice. The Committee was told that the question of whether the Registrant's fitness to practise was currently impaired was a matter for the independent judgement of the Committee.

The Legal Adviser also referred the Committee to the cases of Cohen v GMC, Meadow v GMC, and CHRE v NMC and Grant. Finally, the Committee was reminded that its approach should be as was set out at Paragraph 24 (3) of Schedule 2 of the Rules when deciding upon the issue of current impairment of fitness to practise:

- (a) whether it is satisfied as to the reason for the alleged impairment of fitness to practise;
- (b) the Standards of Conduct and Practice issued by the Council under Section 9 of the Act;
- (c) whether the impairment is capable of remediation;
- (d) whether the impairment has been remediated;
- (e) the risk of repetition; and
- (f) the public interest.

When considering the Registrant's actions, by reason of her conviction, the Committee was satisfied that she had breached the following Standards:

Standard 2: As a social care worker, you must strive to establish and maintain the trust and confidence of service users and carers. This includes:

2.1 Being honest and trustworthy.

Standard 5: As a social care worker, you must uphold public trust and confidence in social care services. In particular you must not:

5.1 Abuse, neglect or harm service users, carers or colleagues;

5.3 Abuse the trust of service users and carers or the access you have to personal information about them or to their property, home or workplace; or

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 considered whether the Registrant's actions were capable of remedy. The Registrant has been convicted of an offence involving dishonesty. To the Committee's mind, the behaviour which resulted in the Registrant's conviction would be very difficult to remedy. However, the Committee was prepared to accept that dishonest conduct was capable of remedy in principle. In this case, the Registrant stole money from a vulnerable service user. She denied any wrongdoing and put forward an elaborate explanation to suggest that she had handed back the money to the service user, and had obtained his signature when she called out to his home.

The Registrant subsequently pleaded guilty to theft of the money in question, and failed to engage in the regulatory proceedings. The Registrant provided the Committee with no evidence of insight, remorse or any steps taken by her to remedy her wrongdoing. As such, the Committee considered that there was a high likelihood that the Registrant would repeat the behaviour complained of, and there was a lack of insight on her part in relation to the seriousness of her criminal offending.

The Committee had regard to the formulation provided by Dame Janet Smith in her Fifth Report to the Shipman Inquiry (cited with approval by Cox J in Grant), and determined that the Registrant: a.) had in the past, and was liable in the future, to put service users at unwarranted risk of harm; b.) had in the past, and was liable in the future, to breach fundamental tenets of the social care profession; c.) had in the past, and was liable in the future, to bring the social care profession into disrepute; and d.) had in the past, and was liable in the future, to act dishonestly.

For these reasons, the Committee was satisfied that a finding of current impairment of the Registrant's fitness to practise was required for public protection reasons.

The Committee also considered the public interest, which included public protection but also included the need to declare and uphold the proper standards of conduct and behaviour, and to maintain the reputation of the social care profession and the Council in its regulatory function. The Committee was satisfied, in light of the serious nature of the Allegation combined with the Registrant's lack of insight and the high the risk of repetition identified, that a failure to make a finding of current impairment of fitness to practise on public interest grounds would undermine the public's trust and confidence in the social care profession. Further, the Committee was also satisfied that a failure to make a finding of current impairment on public interest grounds would fail to declare and uphold proper standards of conduct and behaviour.

For these reasons, the Committee was satisfied that a finding of current impairment of the Registrant's fitness to practise was also required on public interest grounds.

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

Sanction

The Committee heard a submission from Mr Gilmore on the question of what, if any, sanction to impose. The Committee was informed that the Registrant had no previous regulatory findings against her and was, prior to this referral, considered to be a person of good character to the Council. Having set out the relevant factors to consider, and with reference to the Northern Ireland Social Care Council Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'), Mr Gilmore submitted that a Removal Order might be the only appropriate sanction to impose in this case.

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 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 was necessary in the public interest.

The Committee carefully considered all of the available documentary material, together with Mr Gilmore's submissions. It also had careful regard to 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 no previous regulatory findings against her.

The Committee considered the aggravating factors to be as follows:

- The Registrant had been convicted of an offence involving dishonesty;
- The Registrant was in a senior role with Optimum when the offence was committed;
- The Registrant's actions were premeditated;
- There was evidence of concealment by the Registrant of her wrongdoing;
- The Registrant had failed to engage with the Council in the regulatory proceedings against her – she had failed to provide evidence of insight and remediation. She had failed to demonstrate remorse for her actions;
- The Registrant's wrongdoing was only possible by having access to vulnerable service users as a result of her registration as a social care worker; and
- The Registrant had caused financial harm to a service user by stealing money from them.

Having balanced the aggravating and mitigating factors, and having taken into account the interests of public protection and the public interest, the Committee 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 a wholly inadequate response, and would fail to protect the public and uphold the public interest.

Warning – for similar reasons as those advanced under 'No Sanction', the Committee concluded that to issue the Registrant with a Warning would fail to protect the public or uphold the public interest.

Conditions of Practice Order – there were no concerns about the Registrant's practice which would require the imposition of conditions. Further, even if conditions were appropriate, the Committee had no evidence as to the

Registrant's current employment and was not aware as to whether an employer would co-operate with the imposition of conditions. The uppermost consideration was the seriousness of the Allegation. The Committee concluded that a Conditions of Practice Order would be insufficient to protect the public and uphold the public interest.

Suspension – the Committee gave careful consideration to this sanction. However, the Committee noted that the Registrant had failed to engage with the regulatory proceedings against her, and had not shown evidence of insight or remorse for her actions. The Registrant had engaged in deplorable behaviour. Two care workers, in a junior position to the Registrant, had acted commendably by refusing to take a gift of cash from an appreciative service user. The money was entrusted to the Registrant and the expectation was that she would return the money to the service user. Having been made the subject of an investigation, the Registrant concocted an elaborate explanation and stated that the service user had signed an envelope which confirmed his receipt of the money. Thankfully, this service user, although advanced in years, was assessed as having full capacity. He confirmed that he had not received the money from the Registrant, nor had he signed an envelope as the Registrant had claimed. The Registrant was prosecuted and pleaded guilty to theft, namely the money that she had stolen from the service user which she had been entrusted to return to him. As such, the Committee concluded that the Registrant's behaviour, combined with her lack of insight and remediation, was fundamentally incompatible with her remaining on the Social Care Register.

Removal – the Registrant was in a senior role with her employer. Instead of adhering to the high standards expected of her in her role by the public, the Registrant used her position for financial gain. Her actions fell significantly below the standards to be expected of a registered social care worker. As a result, the Committee decided that the only appropriate and proportionate sanction to impose, with immediate effect, was to make a Removal Order in respect of the Registrant's registration.

In addition, the Committee decided, with immediate effect, to revoke the Interim Suspension Order, to which the Registrant has been subject until this hearing.

Important Information

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.

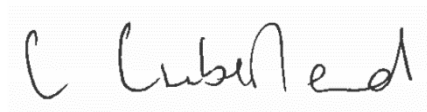
You are prohibited from working as a social care worker in any of the following positions:

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.



06 September 2022

Regulatory Committee Manager

Date