

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

**Name:** Ann Catterson

**SCR No:** 6043869

**NOTICE IS HEREBY GIVEN THAT** the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **01 March 2023**, 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, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended):	
1.	You were convicted on 10 August 2022 of the following offences at the Magistrates’ Court:
(i)	[You] on 03/07/2022, stole 5 x dresses to the value of £94 or thereabouts belonging to Yours, Richmond Centre, Londonderry, contrary to Section 1 of The Theft Act (Northern Ireland) 1969 [Charge 1].
(ii)	[You] on 03/07/2022, not being at your place of abode had with you an article, namely, a large magnet for use in the course of or in connection with any theft or burglary, contrary to Section 24 (1) of The Theft Act (Northern Ireland) 1969 [Charge 2].
(iii)	[You], on 02/07/2022, stole clothing to the value of £50 or thereabouts belonging to Bon Marche, Richmond Centre, Londonderry, contrary to Section 1 of The Theft Act (Northern Ireland) 1969 [Charge 3].
And your actions as set out above show that your fitness to practise is impaired by reason of your convictions.	

## **Preliminary Matters**

### **Procedure:**

The hearing was held under the fitness to practise procedure.

## **Preliminary Matters**

### **Service**

Ms Owens told the Committee that the Notice of Hearing and hearing bundle were issued by email on 19 January 2023 to the Registrant's registered email address. An electronic 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 and Paragraph 5 of Schedule 2.

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 her absence.

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. Ms Owens advised the Committee that the Committee Clerk had called the Registrant on 20 February 2023. The Registrant confirmed to the Clerk that she would not be attending the hearing on 01 March 2023 and that she was content for the hearing to proceed in her absence.

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 *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 should also be taken into account.

In reaching its decision, the Committee had regard to the following:

- The Registrant had not made an application for an adjournment;
- There was no reason to suppose that adjourning the case would secure her 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 her absence.

The Committee, taking into account these factors, concluded that the Registrant's absence was deliberate and voluntary and that she had waived her right to attend the hearing.

The Committee considered that there would be some disadvantage to the Registrant in not attending the hearing but concluded that such disadvantage was outweighed by the public interest in the need to dispose of the case fairly and expeditiously.

Therefore, after careful consideration of all of the issues, the Committee decided 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 and other relevant documentation into evidence at the hearing which the Committee duly exhibited.

### **Declarations of Conflict of Interest**

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

### **Background**

Ms Owens provided the Committee with a background to the case. She told the Committee that the Registrant was registered on Part 2 of the Register and was employed as a Domiciliary Care Worker with Bryson Care Western Services.

Ms Owens stated that this matter came to the attention of the Council as a result of an Employer Referral Form ('ERF'), dated 19 July 2022. The ERF reported:

*"On 29th July 2022 Ann had called into the office and informed her manager that she had been arrested for shop lifting (date unsure) she has been charged and appeared in court 27/07/2022 which was put back for 2 weeks.*

*Ann explained to her manager of what had happend as follows*

*Ann was out shopping in a clothes shop and left her shopping bag on the floor to look at some items of clothing. After being unable to find something suitable she lifted her shopping bag and left the shop. On leaving the shop the alarm went off, Ann was stopped by the security guard and asked to open her bag, inside the bag was 5 dresses which she was asked to provide proof of purchase. Ann couldn't provide any receipts nor give an explanation as to why they were there. Ann was arrested and taken to the police station where she spent the night and was charged with Shop Lifting. Ann appeared in Court on Wednesday 27th July 2022*

*but the case was put back for 2 weeks for further investigation by the police and her solicitor as 2 other women were seen entering and leaving the shop at the same time”.*

## **Evidence**

Ms Owens invited the Committee to pay careful attention to the Certificates of Conviction which were contained in the hearing bundle. The Certificates confirmed that the Registrant had pleaded guilty in the Magistrates’ Court on 10 August 2022 to a number of offences. In respect of these offences, the Registrant received a monetary penalty. The offences formed the basis of the Allegation in these proceedings which was set out in the Notice of Hearing. Ms Owens submitted that the Committee should find the Particulars of the Allegation proved, in accordance with the Rules, on the basis of the Certificates of Conviction placed before the Committee.

## **Finding of Facts**

The Committee heard and accepted the Legal Adviser’s advice. In the course of that advice, he 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*’. He advised the Committee that a registrant could challenge a Certificate of Conviction only where there was evidence that it did not refer to the registrant, or where the conviction had been successfully challenged on appeal. He 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, that the Committee was entitled to rely on the Certificates of Conviction to establish conclusively that the Registrant had been convicted of the offences as set out in the Particulars of the Allegation.

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 Certificates of Conviction. The Committee noted that the convictions had not been appealed, and that the Registrant had not submitted that she was not the person named on the Certificates of Conviction. The Committee concluded that the Certificates of Conviction were conclusive proof of the convictions and the facts underlying them.

The Committee, therefore, found the facts proved.

## **Fitness to Practise**

The Committee proceeded to consider if the Registrant’s fitness to practise was impaired by reason of her convictions. The Committee heard submissions from Ms Owens.

Ms Owens, by reference to the applicable standards, submitted that the Registrant’s actions had fallen below the standards to be expected of a registered social care worker by reason of her convictions. She submitted that there was no evidence of insight or remorse and that, as a result, there was a risk of repetition. She submitted that the Committee ought to make a finding of current impairment for these reasons and also to make such a finding in the public interest.

The Committee considered the submissions from Ms Owens on behalf of the Council, and had regard to all of the evidence in the case. The Committee heard and accepted the advice of the Legal Adviser. In the course of that advice he 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. He further referred the Committee to the findings of Dame Janet Smith in the 5th Shipman Report, cited with approval in CHRE v NMC & Grant.

The Committee was satisfied that the Registrant, by her actions which had resulted in her convictions, 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; and

**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 next considered whether, by reason of her convictions, the Registrant's fitness to practise was currently impaired. When addressing that issue, the Committee 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 noted that the Registrant had been convicted of offences of dishonesty. In principle, with appropriate evidence of insight and remediation, the Committee was prepared to accept that, whilst difficult to remediate, dishonest conduct was capable of remedy. The Committee next considered whether, in fact, the Registrant in this case had remedied her dishonest conduct which had resulted in her convictions. In so doing, the Committee noted that the Registrant had pleaded guilty to the offences before the Magistrates' Court. However, in these proceedings, there was no evidence of regret or remorse on the Registrant's part. As a result, the Committee considered that there was a high risk of the Registrant's dishonest conduct being repeated in the future. In those circumstances the Committee concluded that a finding of current impairment was required to protect the public.

The Committee noted that there was no evidence that the Registrant's offending had taken place whilst she was providing care to service users. In passing, however, it was noted by the Committee that in a witness statement provided to the police, as part of the Registrant's prosecution, she was observed offending while wearing a "blue carer's uniform". The public needed to have utmost confidence in social care workers who were entrusted with providing personal care to vulnerable service users, often in their own homes. As a result, the Committee considered that the Registrant's offending created a risk of harm to the public in general, and also vulnerable service users with whom she came into contact. For these reasons, given the serious offences which had resulted in the Registrant's convictions, the Committee also concluded that a finding of current impairment was also warranted in the public interest. In the Committee's view, a failure to make a finding of current impairment in the public interest would fail to declare proper standards and undermine the public's confidence in the social care workforce.

Applying the formulation provided by Dame Janet Smith, as set out above, the Committee concluded that the Registrant's dishonest conduct as evidenced by her convictions engaged the following:

1. The Registrant had in the past and was likely in the future to place vulnerable service users at unwarranted risk of harm;
2. The Registrant had in the past and was likely in the future to breach a fundamental tenet of her profession;
3. The Registrant had in the past and was likely in the future to bring her profession into disrepute; and
4. The Registrant had in the past and was likely in the future to act dishonestly.

For these reasons, the Committee concluded that the Registrant's fitness to practise is currently impaired by reason of her 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 the 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'). She submitted that, in the view of the Council, the Registrant's actions were fundamentally incompatible with registration as a social care worker. In light of this, and given the Registrant's lack of engagement in the proceedings, Ms Owens invited the Committee to make a Removal Order.

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 Ms Owens 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 pleaded guilty to the offences at the Magistrates' Court and had made admissions to the offences during an under caution interview with the police.

The Committee considered the aggravating factors to be as follows:

- The Registrant had been convicted of offences involving theft and dishonesty;
- The Registrant's actions – as evidenced by her conviction for going equipped for theft, were premeditated;
- 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.

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, however, was the serious nature of the findings made by the Committee against the Registrant in these proceedings. The Committee concluded that a Conditions of Practice Order would, as a result, be insufficient to protect the public and uphold the public interest.

**Suspension Order** – the Committee next considered a Suspension Order. The Committee noted that it had found that the Registrant's dishonest actions, as evidenced by her convictions, were of the utmost seriousness. Her actions had fallen far below the standards to be expected of a registered social care worker.

The Committee carefully considered the issue of proportionality, and whether suspension would address the concerns which it had identified. The Committee noted Paragraph 4.19 of the Guidance, 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, and the Registrant has no psychological or other difficulties preventing them from understanding and seeking to remedy the failings and the failings are realistically capable of being remedied, then suspension may be appropriate.*

The Committee did not come to any adverse conclusion against the Registrant in respect of her decision not to attend the hearing and engage more generally in the regulatory proceedings. However, the fact remained that, as a result of the Registrant's decision not to participate, there was no evidence before the Committee to satisfy it that there would be no repetition of the behaviour complained of. Further, the Registrant had chosen not to place before the Committee evidence of insight and reflection which demonstrated her appreciation of the seriousness of her actions which had resulted in her convictions. These factors had combined in a manner which had resulted in the Committee's conclusion that there was a high risk of repetition. Given this conclusion, in the Committee's view, it decided that a period of suspension - during which the Registrant could reflect on the seriousness of her wrongdoing and provide evidence that there would be no repetition - would serve no useful purpose.

The Committee considered the public interest and concluded that a Suspension Order would be insufficient to protect the public interest. This was because of the seriousness of the findings made against the Registrant and an absence of evidence of regret and remorse on her part for her wrongdoing.

**Removal Order** – the Committee, therefore, decided to impose a Removal Order. The Committee took into account the Guidance at Paragraphs 4.26 – 4.28. In particular, the Committee paid careful regard to Paragraph 4.26, which states:

*This is the most serious sanction which a Committee can impose. A Removal Order is likely to be appropriate when the Registrant's behaviour is fundamentally incompatible with being a social care worker. Removal should be used where there is no other way to protect the public, for example, where there is a lack of insight, continuing problems and a pattern of unacceptable behaviour or denial, where there is no evidence that there is likely to be satisfactory remediation and where confidence in the social care profession would be undermined by allowing the Registrant to remain on the Register.*

The Committee concluded that, given the seriousness of the Registrant's convictions, taken together with an absence of evidence of insight and remediation, a Removal Order was the only appropriate and proportionate sanction to impose in order to protect the public and to maintain public confidence in the social care profession and the Council as its regulator. Such a sanction, in the Committee's view, was also necessary to declare and uphold proper standards and behaviour.

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. The public was entitled to expect that social care workers would be honest and trusted to provide care to the most vulnerable in society. The Committee



determined that the Registrant's dishonest conduct which resulted in her convictions was fundamentally incompatible with continued registration on the Social Care Register

The Committee did take into account the Registrant's previous good work history, her guilty plea and the admissions she made to the police. However, balancing all of the factors in this case and after taking into account all of the evidence, the Committee determined that the appropriate and proportionate sanction was that of a Removal Order. Having regard to the effect of the Registrant's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered social care worker should conduct herself, the Committee concluded that nothing short of this would be sufficient.

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**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*

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Hearings Officer

01 March 2023

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Date