



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

Name: Caroline Curran

SCR No: 6029830

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **02 and 06 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 conviction;

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

Particulars of the Allegation:

That, on the 20 January 2021, whilst being registered as a social care worker, under the Health and Personal Social Services Act (Northern Ireland) 2001(as amended), you were convicted of the following offence at the Magistrates' Court:

1. Defendant on 12th day of November 2019, being an officer on the staff of or otherwise employed in a care home, namely, the County Care Home, Enniskillen, ill-treated [REDACTED], a patient for the time being receiving treatment for mental disorder as an in-patient in the said care home, contrary to Article 121 (1) of the Mental Health (Northern Ireland) Order 1986.

On 20 June 2022, the above conviction was appealed at the County Court. That appeal was dismissed and the conviction and sentence were affirmed.

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 in attendance and was represented by Ms Caroline Wheeler, Union Representative from Unite Union. The Council was represented by Mr Peter Carson, Solicitor, Directorate of Legal Services.

Application to Admit Hearing Bundle

The Committee accepted the Hearing bundle of documents into evidence and marked it as Exhibit 1. The Registrant's bundle was admitted and marked as Exhibit 2.

Conflicts of Interest

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

Submission on Facts

Ms Wheeler submitted that the facts were admitted in so far as those are facts that had happened. She told the Committee that the Registrant was a member of the Northern Ireland Social Care Council ('the Council') and paid for the privilege of having protection from the Council as a carer. She submitted that the Registrant felt she did not get a fair hearing at the Magistrates' Court and that the Council should not go on the back of that case but should do its own standalone investigation into the facts. Ms Wheeler stated that the Registrant did accept she was the person who was convicted of the offence in the Particulars of the Allegation and that of the appeal but did not accept that the outcome of these court cases were correct. Ms Wheeler further stated that the Registrant was considering an appeal to the European Court.

Mr Carson submitted that the Council welcomed this admission. He told the Committee that it was the Council's case 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 Northern Ireland Social Care Council (Amendment) Rules 2019 ('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 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 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 offence 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 conviction. She referred the Committee to case law which established that the Committee could not go behind the conviction

including Spackman v GMC [1945] AC 627, Shepherd v Law Society [1996] EWCA Civ 977, Kirk v Royal College of Veterinary Surgeons [2004] UKPC 4, and Dr Baraw Garaba and the GMC [2018] EWCA Civ 1879.

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 Mr Carson on behalf of the Council, the admission made on behalf of the Registrant by Ms Wheeler and had careful regard to all of the documentary evidence submitted. The Committee noted the facts contained in the Certificate of Conviction and further noted that the Registrant had appealed the conviction and that this was subsequently dismissed and the conviction was upheld. The Committee concluded that the Certificate of Conviction was conclusive proof of the conviction.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise was impaired. The Committee heard submissions from Mr Carson that the Registrant had continued to deny any wrongdoing. He submitted that the Registrant's conviction called into question her ability to work in social care services and to remain on the Register without restriction, or to be registered at all. He referred the Committee to the Standards of Conduct and Practice for Social Care Workers ('the Standards'), which he submitted the Registrant's criminal conviction breached as follows: Standard 5; 5:1 and 5.8.

Mr Carson told the Committee that the Registrant's conviction and conduct fell far below the minimum standard expected of a registered social care worker and called into question her fitness to practise. Mr Carson submitted that the Registrant denied the incident and had pointed to issues with the court process. He told the Committee that in the view of the Council, she had tried to present a case that she was the victim of circumstances and had done nothing by way of possible remediation or developing insight. He submitted that the Registrant had not taken into account the impact on the service user. He submitted that the Registrant's actions have brought the social care profession into disrepute. He said that, in light of the Registrant's lack of insight and remorse into her actions, there was nothing to persuade the Committee that the Registrant's behaviour would not be repeated in the future. There was also no evidence from the Registrant that she had remediated her behaviour. He said that there was no evidence of any regret or remorse by the Registrant, nor was there information to suggest that she would act differently in the future. In the circumstances, Mr Carson submitted that there remained a future risk of harm to service users if the Registrant was allowed to practise without restriction. Mr Carson submitted that the Registrant had demonstrated no insight into the matter. He further submitted that the public interest and confidence in the social care profession would be undermined if a finding of current impairment was not made in these particular circumstances.

Ms Wheeler responded to the submissions from Mr Carson and made submissions on behalf of the Registrant. Ms Wheeler told the Committee that in terms of the impact on the service user, there was no medical evidence

supporting the service user ever being harmed. She said that there was a co-worker, who was at all times within earshot of the incident, and she was not called to give evidence. Ms Wheeler submitted that the Registrant wished that this fifteen-minute period of time, where she worked with the carer who raised the allegation, did not happen. She said that when the Registrant was sent upstairs, she should have refused to go or she should have been given an update on the circumstances surrounding the service user and how she had deteriorated. The Registrant was an advocate for people in the home and had previously raised concerns about ill treatment by others. Ms Wheeler submitted that as a result she was seen as trouble by management at the Home.

Ms Wheeler submitted that the conviction in this case was a miscarriage of justice. She explained that there was evidence missing at the trial, the person raising the allegation had only been working in the home for a total of three months, whereas the Registrant had worked there for a number of years and had been a highly valued carer in the community as well. She submitted that despite this, the allegations were taken as gospel. The word of one person against another was passed to the police and upheld by the courts and was a miscarriage of justice.

Ms Wheeler questioned the role of the Regulation Quality Improvement Authority ('RQIA') and indeed the Council in failing to investigate issues of alleged abuse in the Home raised by the Registrant or to conduct an independent review of the evidence relating to the allegations against the Registrant. Ms Wheeler raised concerns as to why the Council did not question where the evidence was to support the conviction. The Registrant explained to the Committee that at the Home they had clock in and clock out records which would have shown that witnesses were not there at the time. Ms Wheeler explained to the Committee that the conviction was not based on a fair trial.

Ms Wheeler told the Committee that as an experienced carer, the Registrant did have insight, and in particular, had insight into the needs of the service user she was working with that day. Ms Wheeler told the Committee that the Registrant would do all she could to make sure that people in similar circumstances are properly looked after. She submitted that the Registrant was in the eye of the storm and trying to maintain her innocence.

Ms Wheeler told the Committee that the Registrant loved working as a carer and that people had told her that the Registrant would always have gone above and beyond what was required. Ms Wheeler submitted that in terms of risk of repetition, this is a snapshot of fifteen minutes of her life and work as a carer. The Registrant worked as a carer in the community, where service users were more vulnerable and risks were higher, without issue.

In terms of the public interest, Ms Wheeler submitted that the public would be surprised to learn that a carer who raised concerns about a Home and was wrongly convicted, did not have a fair hearing and that the Council just went on the back of the conviction without looking at the evidence.

Ms Wheeler submitted that the Registrant was still subject to a two-year suspended sentence and that the Committee would find her unfit until that had been challenged.

The Committee considered the submissions from Mr Carson on behalf of the Council, from Ms Wheeler on behalf of the Registrant and had regard to all of the evidence in the case. The Legal Adviser advised the Committee that it was being asked to determine whether the Registrant's fitness to practise was impaired because of this conviction. She referred the Committee to Paragraph 24 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 the social care profession. 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 2011. She reminded the Committee that the Registrant was entitled to maintain her innocence and in its deliberations on remediation and insight, the Committee should not equate maintaining innocence with lack of insight. She referred the Committee to the case of Karwal v GMC [2011] EWHC 826 (Admin), which established that culpability is not a condition precedent for insight. The Committee accepted the advice of the Legal Adviser.

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 for a serious offence constituted the reason for the alleged impairment of fitness to practise. The conviction related to ill-treatment of a patient receiving treatment for a mental disorder. The Committee noted that the conviction used the word "ill-treatment" and that it related to a wheelchair bound vulnerable service user with dementia receiving care. In the view of the Committee, this serious conviction would 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 issued by the Council. The Committee was satisfied that the Registrant's actions were in breach of the following Standards:

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:

- 5.1 Abuse, neglect or harm service users, carers or colleagues; 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 found that the Registrant's criminal assault of a vulnerable service user, who was wheelchair bound and receiving care in relation to their toileting was very serious. The Committee considered that such behaviour was not easily remediable. The Committee paid careful regard to the Council's guidance titled 'Making a Determination of Impaired Fitness to Practise: Guidance for Committees on Remediation' ('the Guidance') and noted that:

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.

While the Committee accepted that the conviction did not result in a custodial sentence and the sentence imposed by the Magistrates' Court and County Court was a suspended sentence, it did relate to the abuse of a service user. The Committee was of the view that a serious criminal conviction of this nature can be difficult to remediate. The Committee concluded that the conviction could, in some circumstances, be capable of remediation.

However, the Committee determined that there was no information before the Committee to prove that the Registrant had demonstrated remediation. Regarding insight, the Committee noted that the Registrant had not demonstrated any meaningful insight. The Committee noted that the Registrant had written to the Council on 27 July 2022, stating that she had been "*the victim of circumstances in more than one way*". The Registrant's written submissions to the Council, dated 08 December 2022, also dealt with the impact of these events on her for example stating "*I am constantly asking myself what has happened to me*". The Committee was aware that

the Registrant maintained her conviction was a miscarriage of justice and was careful not to equate maintaining her innocence with a lack of insight. However, the view of the Committee was that there was no evidence that the Registrant had reflected on the seriousness of her conviction or the impact which it may have on service users or their families who may need to use social care services. Similarly, she had not demonstrated any remorse or demonstrated an understanding of how her conviction may have impacted on the service user involved and her family members. In the view of the Committee, the nature of the conviction was so egregious that the Registrant could have demonstrated insight, empathy and understanding for the parties involved even if she did maintain her innocence.

Without insight or remediation, the Committee considered there to be a risk of repetition in this case. Due to the serious nature of the offence, the Committee was concerned that the Registrant continued to pose a risk to vulnerable service users.

In the view of the Committee, the Registrant did not demonstrate to the Committee a suitable degree of concern and care about the protection of vulnerable service users. The Committee took into consideration the submission that the Registrant had been a carer for a long number of years and that this was an isolated incident. The Committee noted the character references and testimonials submitted by the Registrant which described her as a very professional carer. However, the Committee balanced the evidence about her previous work history against the serious nature of the conviction and concluded that a risk of repetition remained.

The Committee also concluded that a finding of current impairment of fitness to practise was necessary in the public interest. It was considered by the Committee 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, in light of the serious conviction in this case and as the Registrant remained subject to a suspended custodial sentence. The Committee concluded that the Registrant's conviction for ill treatment of a service user brought the social care profession into disrepute, and that the public would find it totally unacceptable that a registrant convicted in these circumstances was found not to be impaired.

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

Sanction

Evidence

The Registrant presented evidence to the Committee on mitigation and sanction. The Committee heard sworn evidence from Witness 1, who told the Committee that the Registrant had been his carer from 17 June 2014 for a period of nearly two years. During this time, he had no concerns about her behaviour and said that she excelled in her duty of care. There was never an instance when he doubted the care she provided. He told the Committee that the Registrant facilitated his needs as he liked to rise early and she called early at 06.40. Witness 1 gave evidence to the Committee that the Registrant was a person of integrity. As a vulnerable person

on his own, he found that she was trustworthy and discrete and she excelled in every aspect of the care that she provided. He told the Committee that she always greeted him with a smile, made him feel good and that her hygiene was beyond question. His family were very happy with the care that she provided and felt he could not have got anyone better.

In response to questions from Mr Carson, Witness 1 gave evidence that he was aware of the conviction in this case and that he had attended both court cases, although he was not allowed into the court in the first case due to Covid restrictions. When asked if people receiving care from the Registrant might take issue with her conviction, Witness 1 told the Committee that as a lay person he did not agree with the conviction and had no doubt about the Registrant's capability as a carer. In response to Committee Member questions, Witness 1 confirmed that when the Registrant provided care to him she was always on her own. She would record the tasks performed in a book and he would sign it.

The Committee then heard evidence from Witness 2. He gave evidence that the Registrant was a member of the Union but he did not know her personally until he received a call from Witness 1, who believed she was in difficulty and was being treated unjustly and asked if he could help her. Witness 2 told the Committee that the Registrant was a very humble lady and whilst he was not going to go into the police notes, he was appalled at the police interview with her. He told the Committee that her former employer's contributions to the police were very unworthy and raised great suspicions. Witness 2 gave evidence that he attended on the day of her court case and that due to Covid restrictions only one member of the public was allowed into court, this was one of the Registrant's former associate workers. During the course of the trial, this associate worker came to him in the public lobby in tears about the abuse that the Registrant was receiving. They decided that he would go back into court. Witness 2 gave evidence to the Committee that he was "appalled at the shenanigans" he witnessed during her trial. He had no complaints about the Magistrate but did have complaints with regard to the police investigation. He told the Committee that the Registrant was "at sea" and did not know what was happening so was unable to answer questions. In response to questions from the Chair on the relevance of this evidence, Witness 2 explained that he was giving evidence about the Registrant's character.

Witness 2 told the Committee that he attended the appeal hearing as the Covid restrictions had been lifted and that what he witnessed was appalling. In his opinion, that day the Registrant was "thrown under the bus". He described how the accuser chose to give evidence from behind a screen and her family and the investigating officer were sitting together and laughing, intimidating the Registrant. Rather than ask if others would be concerned about her criminal record, Witness 2, in conclusion, asked the Committee to consider how the public would feel about criminal assertions falsely made.

The Chair asked Ms Wheeler if the Registrant would be giving evidence and was told that she would not.

Ms Wheeler proceeded to make submissions on behalf of the Registrant. Before addressing the Committee on mitigation and sanction, Ms Wheeler asked that the Committee admit into evidence an email from Fitness to Practise Officer, Adrian Glackin, dated 18 September 2020, which she had referred to previously. The email

stated that the Council only became aware of the court date after reading about it in the Newspaper. Ms Wheeler accepted that there was an Employer Referral Form ('ERF') in the hearing bundle but noted that it was dated 20 November 2019 and date stamped as received by the Council on the 20 November 2019 and she questioned how it had been sent and received so quickly.

The email was admitted into evidence as Exhibit 3 and viewed by the Committee. Mr Carson addressed the Committee on the content of the email and stated that the Council do not receive updates from the Common Law Public Disclosure (CLPD) unit and this email was the Council asking for an update, having read about the appeal date in the newspaper.

The Committee accepted that the Council were aware of this matter some 11 months previously, having received the ERF in November 2019. The Committee accepted the clarification of this issue.

The Committee then heard submissions on sanction from Ms Wheeler on behalf of the Registrant. She submitted that this was the Registrant's first offence before the Council, her first disciplinary matter and her first conviction. She submitted that the Registrant had received the rougher end of the law and that no leniency had been shown to her. Ms Wheeler submitted that her conviction was a miscarriage of justice and whilst none of us were in the room when the events occurred, we have sat as judge and jury and treated the word of the person who accused the Registrant as gospel. She stated that the Council was now going to deliver a "double whammy" by not allowing her to work in the care field again and that this was very harsh. Ms Wheeler told the Committee that there was no evidence to back up the allegations against the Registrant and that she had been made out to be a liar and her health had been impacted. Ms Wheeler asked the Committee if it was their mother in a nursing home would they not seek medical advice if she had been the victim of abuse as alleged? She submitted that there was no offensive weapon (the tissue) and no CCTV gathered by police. It was only one person's word against another and it was a character assassination. She submitted that the Committee were not opening their minds to the possibility that events did not happen as described. Ms Wheeler also queried whether there was any evidence that the circumstances as described initially in the complaint had indeed ever happened.

Ms Wheeler told the Committee that the Registrant had been impacted by events. She was very annoyed that the family of the service user were put through this distress as she knew the family well. She lost her job, her income, she lost her friends in the nursing home and she lost the patients that she cared for. She begged that the Committee show fairness and common sense in the delivery of the sanction.

The Committee heard submissions from Mr Carson in relation to sanction. Mr Carson directed the Committee to the character references submitted on behalf of the Registrant. He told the Committee that there were six references, some were undated, some were unsigned and one says "anonymous" but had a name written on it. He submitted that the weight which the Committee could put on these references was limited. Mr Carson submitted that this was a conviction for ill treatment of a particularly vulnerable service user. The conviction was appealed, and the sentence affirmed on appeal. Mr Carson submitted that a reasonable member of the public would expect that a carer convicted of such a serious offence would not be permitted to look after their vulnerable

relative. In the view of the Council, the only Order which the Committee could impose which would ensure service users are protected was a Removal Order.

In reaching its decision on sanction, the Committee considered the evidence from Witness 1 and Witness 2, the submission from Ms Wheeler and the submission from Mr Carson on behalf of the Council, and had regard to all of the evidence in the case. The Committee had careful regard to the hearing bundle and the bundle of evidence submitted on behalf of the Registrant which contained emails from Ms Wheeler to the Council dated 08 December 2022 and 09 December 2022, setting out details of events from the Registrant, handwritten accounts of other events at the Care Home where the Registrant worked, incidents reported to Management of the Care Home by the Registrant, medical evidence and character references provided in support of the Registrant. The Committee also considered the Certificate of Conviction and reminded itself that the Certificate of Conviction was conclusive proof of the facts.

The Committee heard and accepted the advice of 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 and proportionality, weighing the public interest with the Registrant's interests, and taking into account any aggravating and mitigating factors in the case. 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 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:

- No previous issues had been raised with the Council about the Registrant's work as a social care worker;
- The Registrant had provided six positive character references. The Committee gave particular weight to the evidence of Witness 1 about his experience of the Registrant as a carer. Witness 2 gave evidence about the Registrant's character but had no direct experience of her work as a carer;
- This was a first offence; and
- The Registrant had engaged with these proceedings and co-operated with the Council investigation.

The Committee considered the aggravating factors to be:

- The conviction in this case arose from the Registrant's role as a carer, providing intimate care to a vulnerable service user;
- The conviction related to an abuse of trust;
- The conviction was particularly serious as it related to the ill-treatment of a vulnerable service user;
- The Committee was aware that the Registrant maintained her conviction was a miscarriage of justice and was careful not to equate maintaining her innocence with a lack of insight. However, the view of the Committee was that there was no evidence that the Registrant had reflected on the seriousness of her conviction or the impact which it may have on service users or their families who may need to use social care services. In the view of the Committee, the Registrant had demonstrated a lack of insight; and
- There was no evidence that the Registrant had reflected on how her conviction may have impacted on the service user, who had dementia and was wheelchair bound. In the view of the Committee, the Registrant had demonstrated a lack of empathy or concern for the service user.

The Committee was in no doubt that the Registrant's conviction meant her actions fell 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 proceeded to consider which sanction to apply in this case.

No sanction- the Committee had no doubt that it would be entirely inappropriate to impose no sanction in this case. To impose no sanction would be inappropriate in view of the seriousness of the conviction and would not protect the public or address the public interest.

Warning – the Committee considered whether to impose a Warning. Having regard to its previous findings on impairment, the Committee considered that such a step would be inadequate to protect the public and would fail to uphold the public interest. The Committee considered that the Registrant’s conviction was not at the lower end of the spectrum.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Registrant’s conviction was for a serious offence committed at work and this was not something which could be addressed through retraining or conditions. The Committee concluded that a Conditions of Practice Order would be insufficient to protect the public and uphold the public interest, given the seriousness of the Registrant’s departure from the standards expected of a registered social care worker. The Committee could not formulate workable, enforceable or verifiable conditions which would address the Registrant’s behaviour, adequately protect the public and address the wider public interest.

Suspension – the Committee next considered a Suspension Order. The Committee noted that it had made findings that the conviction in this case was very serious and fell 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 it had identified. The Committee noted paragraph 4.19 of the Guidance which states:

4.19 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 had no evidence before it that the Registrant acknowledged her failings, in so far as they impacted on the service user, or her registration as a social care worker. The Registrant had demonstrated virtually no insight and had provided no evidence of remediation. The Committee had earlier determined that there was a risk of repetition in the future. The Registrant has not satisfied the Committee that she would realistically take steps to remedy her behaviour during a period of suspension. Furthermore, the Committee was not satisfied that a Suspension Order would protect the public once the period of suspension had concluded.

The Committee considered the public interest. The Committee considered that the public would perceive the Registrant’s criminal behaviour as falling far short of what would be expected of a registered social care worker.

The Committee concluded that a Suspension Order would be insufficient to protect the public and to address the seriousness of the Registrant’s criminal conviction.

Removal – 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.

It concluded that given the seriousness of the Registrant's criminal conviction and her lack of insight and remediation of her failings, a Removal Order was the only appropriate sanction to protect the public and to maintain public confidence in the social care profession and the Council as its regulator. The Registrant's conviction was for ill-treatment of a vulnerable service user and 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 is entitled to expect that social care workers can be trusted to provide care to the most vulnerable in society. The Committee balanced the evidence from Witness 1 about his experience of the Registrant as a carer and the character references submitted on behalf of the Registrant, against the serious nature of the conviction. Despite the evidence of previous good character, the Committee determined that the Registrant's criminal behaviour, which was a serious abuse of the trust placed in her, identified her as being unfit to be a member of a caring profession.

In the view of the Committee, the Registrant's conviction was so serious that it is fundamentally incompatible with working in social care. Public confidence in the Council and in social care services would be undermined if a social care worker who was convicted of such a serious offence, involving ill-treatment of a vulnerable service user, was allowed to remain on the Register. The Committee considered that a sanction short of a Removal Order would fail to declare and uphold proper standards of conduct and behaviour.

The Committee did take into account the Registrant's previous good work history and the submissions made on her behalf that her conviction was a miscarriage of justice. However, balancing all of the factors in this case and after taking into account the evidence submitted on behalf of the Registrant and the Certificate of Conviction, the Committee determined that the appropriate and proportionate sanction was that of a Removal Order.

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

The Interim Suspension Order which was in place was revoked and replaced with a Removal Order.

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.

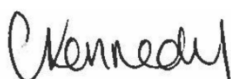
The effect of this decision is that your entry in the Register has been removed.

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.



Hearings Officer

08 March 2023

Date