



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

Name: Lynsey Anne Patton

SCR No: 6036910

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **25 April 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 misconduct;

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

Particulars of the Allegation:

That, on 3 October 2020 whilst registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended) you:

1.	Stole cash in the amount of £90 from the home of a service user whilst attending for her evening care call.
----	---

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

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Matters

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

Service

Mr Carson told the Committee that the Notice of Hearing and hearing bundle were emailed to the Registrant's registered email address on 20 March 2023. A delivery receipt was received on the same day. On 18 April

2023, the Committee Clerk called the Registrant's registered telephone number and left a voicemail message, asking her to confirm if she would be in attendance at the fitness to practise hearing, either by return email or telephone call. No communication was received from the Registrant.

The Committee received legal advice from the Legal Adviser, and she 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 service shall be treated as being effected on the day after it was properly sent.

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.

Proceeding in the Absence of the Registrant

Mr Carson 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 again referred the Committee to the attempts made by the Committee Clerk to telephone the Registrant, and the voicemail left for her. He noted that the Registrant had not requested an adjournment, nor indicated that she wished to be represented at the fitness to practise hearing. He further noted that the Registrant had not engaged at any stage with the Council. He suggested that it was in the public interest for there to be an expeditious disposal of the hearing, and that any disadvantage to the Registrant was outweighed in all of the circumstances.

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 and that of 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 consider it an admission in any way.

The Committee reminded itself that fairness to the Registrant should be a prime consideration. The Committee bore in mind the public interest in the expeditious disposal of the hearing.

After careful consideration of all of the evidence, information and the issues, the Committee decided to exercise its discretion to proceed in the absence of the Registrant, taking into account the serious nature of the allegation and striking a careful balance between fairness to the Registrant and the wider public interest. The Committee noted that the Registrant was given a number of opportunities to engage with the Council, or indeed request an adjournment to enable her to arrange representation. The Registrant did not engage with the Council at any

stage or as regards the fitness to practise hearing. The events relating to the Particulars of the Allegation took place in October 2020, and the Committee noted that there were two witnesses available to give evidence to the Committee. The Committee, in all of the circumstances, considered that the Registrant had voluntarily absented herself from the hearing. However, the Committee reminded itself that it must avoid reaching any improper conclusion about the Registrant's absence, nor treat the absence as an admission.

Application to Admit Hearing Bundle

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

At the outset of the Council's case, Mr Carson applied for a number of documents to be admitted into evidence without formal proof. These documents were as follows:

- Employer Referral Form ('ERF'), dated 07 October 2020;
- Certificate of Order of Dismissal, dated 21 December 2021;
- PSNI Summary; and
- 2 x PSNI witness statements made by the service user, dated 06 October 2020 and 16 October 2020.

Mr Carson submitted that these documents were necessary for proper consideration of the allegations against the Registrant, and should be admitted into evidence by way of hearsay.

The Committee heard and accepted advice from the Legal Adviser. In the course of that advice, the Legal Adviser referred to the cases of NMC v Ogbonna, R (Bonhoeffer) v GMC, El Karout v NMC and Thorneycroft v NMC.

Having carefully considered the application, the Committee decided to grant the application to admit the aforementioned documents without formal proof, and in accordance with Paragraph 12 (1) (a) and (b) of Schedule 2 of the Rules. The Committee noted that the ERF was the first notification to the Council as regards the allegation. The Certificate of Order of Dismissal was a legal document, and the Committee considered that it would be both relevant and fair to the Registrant in admitting this document. The Committee further considered the PSNI Summary, and again considered the admission of this summary to be fair and relevant, in that the contents provided context to the criminal charge made against the Registrant.

As regards the two police statements made by the service user, the Committee noted that this service user was now deceased. In considering the admission of these statements, the Committee noted that this was not the only evidence to be provided in relation to the allegation, and that the contents of the witness statements were very relevant. In addition, the Registrant was provided with prior notice that these witness statements would be presented at the hearing, and raised no objection. Accordingly, the Committee considered that these witness statements could be admitted without formal proof, and that consideration would be given at a later stage as to the appropriate weight to give to this evidence.

Declarations of Conflict of Interest

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

Background

Mr Carson provided an outline to the Committee as to the background to this case. He said that the Registrant was registered on Part 2 of the Register, and had been employed as a community care worker with Bryson Care, working in the Belfast area. He noted that this matter was first brought to the attention of the Council by way of an ERF, dated 07 October 2020, which advised that the Registrant had been arrested and bailed in relation to an allegation of theft from a service user.

He noted that the matter was referred to the Public Prosecution Service ('PPS'), who directed prosecution. The PSNI Common Law Police Disclosure ('CLPD') Unit later advised the Council that the case had been dismissed by the Court on 13 December 2021. He referred to the Certificate of Order of Dismissal, which confirmed that the matter had been dismissed.

On 17 December 2021, the Council received an email from the granddaughter of the service user who was believed to be the victim of the alleged theft. Mr Carson said that, with permission from the service user, a small camera had been installed in the service user's living room. The camera was linked to an app on the granddaughter's mobile telephone, which allowed her to *'watch footage as it happened'*. The service user's granddaughter advised the Council that she had counted the money in the service user's purse on the morning of 03 October 2023, and that there was £180.00.

Mr Carson submitted that on the evening of 03 October 2020, the Registrant attended with another carer. At 7:42 pm, the Registrant was recorded by the camera going through the service user's purse, and appearing to remove cash before placing it on the sofa and then concealing it down her top as she left the room. The service user's granddaughter said that she was watching the footage as it happened, and was in the service user's home within 5 - 10 minutes after the incident. She said that she re-counted the money, and it appeared that £90 had been taken from the handbag.

Mr Carson referred to the PSNI summary, which stated that the Registrant was arrested on 06 October 2020 *'for theft'* and *'replied no comment to almost every question. She did state that the alleged aggrieved party asked her to put a plastic bag and tea towel over her handbag'*.

Mr Carson noted that it was confirmed by the service user in her statements to the PSNI, and also by her granddaughter, that permission was not given for the Registrant to do anything to the service user's handbag. The second carer on duty with the Registrant on the day of the alleged theft also provided a statement to the Council, in which he advised that he attended at the service user's home with the Registrant at around 7 pm for the *'bed call'*. He stated that during the process of preparing the service user for bed, the Registrant told him that

she needed to take a phone call regarding a sick family member who was in hospital, and that she stepped into the next room to take the phone call.

Evidence

The Committee received into evidence Exhibit 1, and heard oral affirmed evidence from Witness 1, who was the service user's granddaughter and Witness 2, the social care worker who was working the same shift as the Registrant on the day of the allegation. The Committee also accepted CCTV evidence taken from within the service user's home on 03 October 2020.

Finding of Facts

In reaching its decision on the facts, the Committee considered all of the evidence adduced in this case, together with the submissions made by Mr Carson, on behalf of the Council. The Committee heard and accepted the advice of the Legal Adviser. The Committee was aware that the burden of proof rests on the Council, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the Committee is satisfied that it was more likely than not that the incident occurred as alleged.

The Committee then considered the Particulars of the Allegation:

Particular 1: That, on 03 October 2020 whilst being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended) you stole cash in the amount of £90 from the home of a service user whilst attending for her evening care call.

In considering this allegation, the Committee paid particular attention to the oral evidence of Witnesses 1 and 2. In addition, the Committee took into account the CCTV footage as referred to during the evidence of Witness 1. The Committee took time to consider the CCTV evidence. The short CCTV footage showed that it was recorded on 03 October 2020, and commenced at a time of 19:42.

Witness 1 gave evidence to the Committee that she was the granddaughter of the service user, who received care from the Registrant. She said that the service user was provided with care four times during the day, and was assisted with her meals and moving in and out of bed. She told the Committee that her grandmother lived alone independently. She gave evidence that her grandmother looked after her own finances, and was capable and responsible for her own finances. She said that as a result of concerns raised by her grandmother as regards missing money, she installed a camera in her grandmother's living room. She explained to the Committee that the camera was linked to her mobile phone and that, on 03 October 2020, she observed the Registrant during the evening call. She told the Committee that she was able to observe what was happening in her grandmother's living room in real time. She gave evidence that she saw the Registrant removing her grandmother's purse, which was on the sofa in a plastic bag in a basket, and taking money that she then put down her top. She gave evidence that she was shocked at what she had seen and immediately went around to her grandmother's house, which took her about five or ten minutes. She said that the carers had just left her grandmother's house, and she went to check the purse and found £90 cash remaining. She confirmed that no

one had permission to take cash from the purse, and said that her grandmother was very upset about what had happened. She told the Committee that she subsequently contacted the police and provided a police statement, as did her grandmother. She said that her grandmother went downhill rapidly after this incident.

Witness 2 gave evidence to the Committee that at the time of this alleged incident, he was working as a carer with the Registrant and provided care to the service user. He gave evidence that he had a good working relationship with the Registrant. He told the Committee that at the bed call, around 7 pm, the service user was provided with care which involved giving night medication and helping her to bed. On 03 October 2020 he recalled that at the bed call, the Registrant took a phone call in the living room, and while she was absent he had provided most of the care to the service user. He confirmed that the service user did not ask the Registrant to do anything particular in the living room. He told the Committee that after using the upstairs bathroom, he met the Registrant standing at the bottom of the stairs, which he considered to be unusual, and that nothing further was said.

In considering this allegation, the Committee found the evidence from Witness 1 to be clear, persuasive and credible. Witness 1 impressed the Committee with her recall of circumstances leading up to the installation of the camera in her grandmother's living room. Witness 1 was able to observe what was happening in her grandmother's home on 03 October 2020 through the live digital feed. The Committee also spent time considering the CCTV footage, and found this to be consistent with the evidence given by Witness 1. The Committee was presented with nothing from the Registrant as regards her account of what happened on 03 October 2020.

The Committee took into account the evidence from Witness 2, and considered his evidence to be clear, coherent and credible. He outlined the care provided to the service user by both himself and the Registrant, and confirmed his good working relationship with the Registrant. He was not a direct witness to the events as recorded on the CCTV footage. He gave evidence to the Committee of a good relationship with the service user, and confirmed that she never asked anyone to take anything from her purse.

The Committee considered the police statements provided by the service user, now deceased. The Committee took into account the contents of these statements. However, the Committee gave greater weight to the service user's granddaughter's oral evidence when considering the allegation.

In addition, the Committee noted that the Registrant pleaded not guilty and that the charge was dismissed. The Registrant, at no stage during the Council investigation and to date, has made any admissions to the Particulars of the Allegation.

Taking all of the evidence into account, the Committee accepted that the Council had discharged the burden of proof and, on the balance of probabilities, the Committee found that the Particulars of the Allegation were proved.

Fitness to Practise

The Committee moved on to consider if the Registrant's fitness to practise was impaired. The Committee heard submissions from Mr Carson. He referred the Committee to Paragraph 24 (3) of Schedule 2 of the Rules. He submitted that the Registrant's fitness to practise was impaired by reason of her misconduct, as evidenced by the CCTV evidence and the sworn oral evidence from Witnesses 1 and 2. He further noted that the Registrant had made no admission to the allegation. He submitted that in the opinion of the Council, the following Northern Ireland Social Care Council Standards of Conduct and Practice for Social Care Workers ('the Standards') have been breached: 2, 2.1, 5, 5.1, 5.2 and 5.8. He submitted that the Registrant's theft of £90 from a vulnerable service user's purse, while working in the service user's home, constituted actions falling well below the minimum standards expected of a social care worker. Mr Carson submitted that in considering remediation and whether the Registrant's actions were capable of remediation, the level of insight was central. He submitted that there was no evidence of the Registrant showing insight into the effects of her actions or accepting responsibility for them. Mr Carson said that the Registrant had failed to engage with the Council's investigation or with this Committee, and that the onus was on her to show that her fitness to practise was not impaired. Mr Carson further submitted that there was a risk of repetition, and said that the Registrant's actions were an abuse of her position as a social care worker, and that there was nothing to suggest that she would not repeat her behaviour in the future. Mr Carson submitted that the public interest in this matter was engaged, and that the public should have confidence in the Council as a regulator of social care workers. He submitted that the Registrant was entrusted to carry out care for the service user, and that her misconduct was a serious breach of the Standards. He suggested that her actions were at the high end of seriousness. In all of the circumstances, he submitted that the Registrant's fitness to practise was impaired by reason of her misconduct.

The Committee heard and accepted the advice of the Legal Adviser. She referred the Committee to Paragraph 24 of Schedule 2 of the Rules and the requirements as set out in the case of GMC v Cohen. She directed the Committee to the findings of Dame Janet Smith in her 5th report to the Shipman Inquiry and her guidance on the causes of impairment. She also referred the Committee to the cases of GMC v Roylance, CHRE v Grant and Dey v GMC 2001.

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 the Committee shall 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 first considered whether the facts found proved amounted to misconduct. The Particulars of the Allegation against the Registrant related to her theft of cash in the amount of £90 from the purse of a vulnerable service user, for whom she was providing personal care in the service user's home, and constituted a breach of trust.

The Committee was satisfied that the general public would consider the Registrant's actions as found proved in the Particulars of the Allegation to be deplorable and falling short of what is expected of a registered social care worker. The Committee considered that the Registrant's actions, therefore, amounted to misconduct.

The Committee had regard to the Standards, and found the Registrant's misconduct to be in breach of the following Standards:

Standard 2: As a social 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;

5.2 Exploit service users, carers or colleagues in any way; 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 determined that the facts found proved involved a serious departure from the Standards expected of a registered social care worker. The Registrant's actions in stealing money from a vulnerable service user's purse breached fundamental tenets of social care, and brought the social care workforce into disrepute. Health authorities, service users and the public must be able to place complete reliance on the integrity of social care workers, and the Committee regarded the Registrant's actions as undermining that confidence.

The Committee next considered whether, as a result of the misconduct found proved, the Registrant's fitness to practise was impaired. The Committee kept at the forefront of its mind, when reaching this decision, the duty to protect the public, uphold proper standards of conduct and behaviour and maintain public confidence in the social care workforce.

With regard to consideration of future risk, the Committee concluded that the Registrant's misconduct, in all of the circumstances, had not been remediated. The Committee noted the complete lack of engagement by the Registrant with the Council and subsequent hearing. The Committee found that the Registrant's actions constituted an abuse of trust, and had received no evidence to show that the Registrant accepted her wrongdoing or displayed remorse for her actions. The Committee had no evidence from the Registrant as

regards any insight into her behaviour and, therefore, considered there to be a continued risk of repetition in relation to her serious misconduct.

The Committee considered the public interest, and concluded that the public interest was engaged in this matter. In all of the circumstances, the Committee determined that public confidence in the profession and the Council as a regulator would be undermined if a finding of impairment was not made. The Committee was concerned that if a finding of impairment was not made, the public, including other social care workers, may consider the Registrant's actions as deemed acceptable. The Registrant's theft from the service user's purse was a serious breach of the Standards and, in particular, was a breach of the trust placed in her to provide care for a vulnerable service user, who suffered harm as a result of this theft. Therefore, the Committee determined that a finding of impairment on public interest grounds was also required.

Accordingly, the Committee determined that the Registrant's fitness to practise is currently impaired.

Sanction

In reaching its decision on sanction, the Committee considered the submissions of Mr Carson on behalf of the Council, and had careful regard to all of the evidence in this case.

Mr Carson directed the Committee to the various mitigating and aggravating factors, and the NISCC Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'). As regards mitigation, he advised the Committee that the Registrant had no previous disciplinary record with the Council.

Mr Carson submitted, as regards aggravating factors, that the Registrant's misconduct involved theft from a vulnerable service user whilst providing care in her home. He submitted that the Registrant's theft was calculated and deceitful, with her hiding the money which she had taken. In addition, he noted that there had been no engagement whatsoever with the Council.

Mr Carson submitted that imposing no sanction, a Warning or conditions of practice would not address the seriousness of the Registrant's misconduct and the risk of repetition identified by the Committee, nor protect the public. He said that none of these sanctions would address the serious issue of the Registrant's theft or prevent repetition of this. He said that the Registrant's theft of monies was particularly serious as these monies were taken from the purse of a vulnerable service user, when the Registrant was working in the service user's home. He said that the Registrant had abused her position of trust and posed a direct risk to service users. He submitted that the Registrant's misconduct required the imposition of a sanction at the higher end of the scale. He suggested that, therefore, consideration should be given to a Removal Order.

The Committee received and accepted the advice of the Legal Adviser. She referred the Committee to the Guidance and the cases of Parkinson v NMC, CHRE v GMC (Southall) and Atkinson v GMC. She reminded the Committee to consider the question of sanction in ascending order of severity, paying particular attention to the issue of proportionality.

The Committee referred 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').

In deciding which sanction to impose, the Committee took 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 recognised that the purpose of sanction is not punitive, although sanction may have a punitive effect. The Committee first considered the mitigating and aggravating factors in this case.

The Committee considered the mitigating factors to be:

- The Registrant had no history of previous referrals to the Council.

The Committee considered the aggravating factors to be:

- The Registrant's misconduct involved theft of monies from a vulnerable service user;
- The theft took place in the service user's home and constituted an abuse of trust;
- The Registrant's actions were calculated, deceitful and premeditated;
- The Registrant has not expressed remorse or insight into her misconduct;
- The Registrant has not engaged with the Council or the fitness to practise hearing;
- The Registrant's actions caused harm to the service user; and
- The Registrant's misconduct constituted a serious falling short of the Standards.

The Committee applied the principles of fairness, reasonableness and proportionality, weighing the public interest with the Registrant's interests, and took into account the aggravating and mitigating factors in the case. The public interest included the protection of members of the public, including service users, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour within the workforce. 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 was one for its own independent judgement.

Having balanced the aggravating and mitigating factors, the Committee considered that the aggravating factors far outweighed the mitigating factors, and proceeded to consider the appropriate sanction to apply in this case.

No Sanction - the Committee had no hesitation in concluding that it would neither be appropriate nor proportionate if no sanction was imposed in this case. In the view of the Committee, if no sanction was imposed this would not mark the seriousness of the misconduct, meet the public interest in this matter or address the concerns identified.

Warning - the Committee considered the issue of a Warning in this case. The Committee considered that the Registrant's serious misconduct demonstrated a disregard for the Standards expected of a registered social care worker. The Registrant's impairment of fitness to practise was not at the lower end of the spectrum, particularly in relation to her theft of money from a vulnerable service user, which resulted in harm. In addition, the circumstances were not 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 her behaviour and its impact on the service user. Therefore, a Warning would not be appropriate or proportionate to the serious misconduct identified 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 it is appropriate for an individual to remain on the Register. The Registrant has not demonstrated any insight into her serious misconduct involving an incident of theft, nor expressed remorse or a desire to remediate her behaviour. The Committee had no evidence as regards the Registrant's current employment. 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 serious misconduct and adequately protect the public.

Suspension Order – the Committee next considered a Suspension Order. In considering this, the Committee took into account the Guidance at Paragraph 4.19 and 4.20 as follows:

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.

4.20 Suspension may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):

- serious incident of misconduct where suitability to be registered is impaired and where a lesser sanction is not sufficient, but removal is not warranted;
- behaviour is not fundamentally incompatible with continuing to be a registered social care worker in the long term;
- interests of service users and the public are sufficiently protected by suspension;
- no real risk of repeating the behaviour;
- no evidence of harmful deep-seated personality or attitudinal problems;
- no evidence of a repetition of the behaviour since the incident/s;
- insight;
- where the evidence demonstrates that the Registrant will be able to resolve or remedy the cause of the misconduct during the period of suspension.

The Committee considered that the Registrant's serious misconduct evidenced behaviour that was fundamentally incompatible with registration as a social care worker. The Committee, in the particular circumstances of this matter, had no evidence that demonstrated that the Registrant had remedied her misconduct or would do so in the future. It therefore 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 remorse from the Registrant, nor had it any information to indicate that the Registrant was unlikely to repeat her behaviour in the future. The Committee considered that the public would view the Registrant's 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 serious and unacceptable nature of the Registrant's misconduct.

Removal Order – the Committee next considered a Removal Order. In considering this, the Committee took into account the Guidance as follows:

4.26 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.

4.27 Removal may be appropriate where some or all of the following factors are apparent (this list is not exhaustive):

- i. Misconduct

- ii. Lack of competence
- iii. Physical or mental health
- iv. A conviction of caution in the UK for a criminal offence or a conviction elsewhere for an offence which, if committed in the UK, would constitute a criminal offence
- v. A determination made by another Regulatory Body (see Appendix 1).
- vi. Inclusion on a list maintained by the Disclosure and Barring Service.

5.10 The Standards state that social care workers must be honest and trustworthy (Standard of Conduct 2.1) and must recognise and use responsibly the power that comes from their work with people who use services and their carers (Standard of Conduct 3.7).

The Committee concluded that given the very serious nature of the Registrant's misconduct and her lack of insight and remediation, a Removal Order was the only sufficient and proportionate sanction. The Committee determined that the Registrant's behaviour was fundamentally incompatible with being a registered social care worker. The Registrant's misconduct took place in her role as a social care worker and impacted on a vulnerable service user. The Registrant failed to attend the hearing and assure the Committee that there would be no repetition of her misconduct. The Committee found the Registrant's misconduct, involving theft from a vulnerable service user, to be serious and at the higher end of the spectrum and considered that the Registrant, as a social care worker, abused her position of trust. The Committee took into account the evidence from Witness 1 of the serious impact that this theft had on the service user. 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 misconduct. 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 a suitable, appropriate, and proportionate sanction, which was imposed on the Registrant's registration with immediate effect, and that the Interim Suspension Order currently in place should be revoked.

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.



28 April 2023

Committee Clerk

Date