



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

Name: Daniel Bell

SCR No: 7012686

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council ('the Council'), at its meeting on **26 May 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 and by reason of your inclusion on the barred lists maintained by the Disclosure and Barring Service.

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

Particulars of the Allegation:

That, whilst being registered as a social care worker under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended):

A. You were convicted at the Crown Court on 30 June 2022 of the following offences:

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| 1. | Count 1: - Defendant on the 3rd day of May 2016, made an indecent photograph of a child, file name: Australian_clip_of_naked_boys_2.avi contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978. |
| 2. | Count 2: - Defendant on the 28th day of March 2015, made an indecent photograph of a child, file name: man fuck hard 10-12.3gp contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978. |
| 3. | Count 3: - Defendant on the 18th day of January 2018, made an indecent photograph of a child, file name:- gordo 11y.avi contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978. |
| 4. | Count 4: - Defendant on the 3rd day of October 2017, made an indecent photograph of a child, file name: |

	image_0000016.jpeg contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
5.	Count 5: - Defendant on the 23rd day of October 2016, made an indecent photograph of a child, file name: Photo 21-10-2016 5 52 30 am.jpg.thumb contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
6.	Count 6: - Defendant on the 13th day of December 2016, made an indecent photograph of a child, file name: Photo 04-12-2016,3 24 19 pm.jpg.thumb contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
7.	Count 7: - Defendant on the 13th day of December 2016, made an indecent photograph of a child, file name; Photo 08-12-2016,6 46 47 pm.jpg.thumb contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
8.	Count 8: - Defendant on the 1st day of December 2016, made an indecent photograph of a child, file name: Screenshot_20161118-024853.png.thumb contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
9.	Count 10: - Defendant on the 13th day of December 2016, made an indecent photograph of a child, file name: Photo 18-11-2016,455 22 pm.jpg.thumb contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
10.	Count 12: - Defendant on the 29th day of May 2014, made an indecent photograph of a child, file name: crying boy.avi contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
11.	Count 13: - Defendant on the 27th day of August 2019, made an indecent photograph of a child, file name:IMG4497JPG contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
12.	Count 14: - Defendant on the 11th day of August 2014, made an indecent photograph of a child, file name: !!NEW-Boy11y Used&photographed by 2Men (exciting!).mpg contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
13.	Count 15: - Defendant on the 3rd day of July 2017, made an indecent photograph of a child, file name: 18.thumb.m.png contrary Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
14.	Count 16: - Defendant on a date unknown between the 11th day of August 2014 and the 29th day of April 2020, made an indecent photograph of a child, file name: m1487611945.597653.o_embedded_1.jpg contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
15.	Count 17: - Defendant on a date unknown between the 3rd day of November 2017 and the 29th day of April 2020, made an indecent photograph of a child, file name 12boygame11-4-3gp contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
16.	Count 19: - Defendant on a date unknown between the 3rd day of November 2017 and the 29th day of

	April 2020, made an indecent photograph of a child, file name: 2 younger boys in bed.avi contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
17.	Count 20: - Defendant on a date unknown between the 3rd day of November 2017 and the 29th day of April 2020, made an indecent photograph of a child, file name: 13yo boy in green hoodie plays with dick, poses, showing feet, sucking toe (SC 2012).avi, contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
18.	Count 21: - Defendant on a date unknown between the 3rd day of November 2017 and the 29th day of April 2020, made an indecent photograph of a child, file name: cplAdT3HkMmw2TGE_cLAZb9fpGwNJy8.jpeg contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
19.	Count 23: - Defendant on a date unknown between the 15th day of February 2012 and the 29th day of April 2020, had in your possession an indecent photograph of a child, file name: \porn\BoyGroup\IMG_9867.JPG contrary to Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.
20.	Count 24: - Defendant on a date unknown between the 15th day of February 2012 and the 29th day of April 2020, had in your possession an indecent photograph of a child, file name: \porn\Videos5\IMG_9582.MOV contrary to Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.
21.	Count 25: - Defendant on a date unknown between the 15th day of February 2012 and the 29th day of April 2020, had in your possession an indecent photograph of a child, file name: \Blaster\Img2200000\img2200008.jpg contrary to Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.
22.	Count 27: - Defendant on a date unknown between the 15th day of February 2012 and the 29th day of April 2020, made an indecent photograph of a child, file name: \porn\Leonardo\IMG_0561.JPG contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.
23.	Count 28: - Defendant on dates unknown between the 15th day of February 2012 and the 29th day of April 2020 had in your possession 2228 indecent images of children, contrary to Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.
B.	You were made subject to the following decisions of the Disclosure and Barring Service:
1.	On 11 February 2023, your name was included on the list of those barred from working with children by the Disclosure and Barring Service.
2.	On 11 February 2023, your name was included on the list of those barred from working with adults by the Disclosure and Barring Service.
And your convictions as set out at A1 - A23 above shows that your fitness to practise is impaired by reason of	

your convictions.

And on the basis of the decision of the Disclosure and Barring Service, as set out at B 1 and B 2 above, shows that your fitness to practise is impaired by reason of your inclusion on the barred lists maintained by the Disclosure and Barring Service.

Procedure:

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Registrant was not in attendance and the Council was represented by Mr Anthony Gilmore, Solicitor, Directorate of Legal Services.

Service

Mr Gilmore told the Committee that the Notice of Hearing and hearing bundle were posted by special delivery post on 17 April 2023 to the Registrant's registered address. The package was delivered and signed for on 18 April 2023. An amended hearing bundle was posted by special delivery post to the Registrant's registered address on 10 May 2023. The package was delivered and signed for on 12 May 2023. The Registrant has not responded to any communication from the Council. The Council have attempted to call the Registrant, however the registered telephone number for the Registrant is no longer valid.

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

Proceeding in the Absence of the Registrant

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

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

must have regard to all of the circumstances, with fairness to the Registrant being of prime consideration, although fairness to the Council and the public interest must also be taken into account. She reminded the Committee to avoid reaching any improper conclusion about the Registrant's absence and not to accept it as an admission in any way.

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

- The Registrant received and signed for the Notice of Hearing and hearing bundle;
- The Registrant had not made an application for an adjournment;
- There has been no engagement from the Registrant;
- There was no reason to suppose that adjourning the case would secure his attendance at a future date;
- The Registrant had not sought to be legally represented;
- The Notice of Hearing provided details of the allegation, the time, date and method of the hearing and, amongst other things, information about the Registrant's right to attend, be represented and call evidence, as well as the Committee's power to proceed in his absence. The Committee, therefore, concluded that the Registrant's absence was deliberate and a waiver of his right to appear; and
- There was a strong public interest in the expeditious disposal of this case.

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

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

Application to Admit Hearing Bundle

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

Declarations of Conflict of Interest

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

Background & Submissions

Mr Gilmore told the Committee that the Registrant started working in social care in April 2020, and was first registered on 08 October 2020 on Part 2 of the Register as a social care worker. He was employed as a support worker with Positive Futures.

Mr Gilmore referred the Committee to the background, and directed the Committee to the Case Summary provided by the police, which sets out the background and the context.

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

Mr Gilmore asked the Committee to pay careful attention to the Certificate of Conviction contained within the bundle of evidence. He submitted that this document provided evidence that the Registrant pleaded guilty on 30 June 2022 to 23 offences. Mr Gilmore told the Committee that there were 19 offences which related to the Registrant having made indecent photographs / images of children, and four offences which related to possession of indecent photographs / images of children.

Mr Gilmore told the Committee that these offences were dealt with in the Crown Court. The Registrant pleaded guilty and was convicted on 30 June 2022 and, on 11 November 2022, the Registrant was sentenced to the following:

- Sex Offenders' Registration required for five years;
- Sexual Offences Prevention Order - to include a number of conditions, including prohibited from staying overnight at any address without prior approval of his designated risk manager. Prohibited access, association, contact with persons under the age of 16. Prohibited from paid / unpaid activity which affords access to children or vulnerable adults. Prohibited from using a computer, mobile phone or device which allows internet access. The Registrant must allow police to enter any premises where he is residing to ensure that he is complying with the Order.
- Combination Order – 80 hours' Community Service Order and Probation Order for three years; and
- To attend a sexual abuse programme with the PBNI Intensive Supervision Unit.

Mr Gilmore submitted that the offending behaviour was extensive in terms of the volume of images / photographs and the length of time over which the offences occurred. Mr Gilmore submitted that the Registrant remains subject to a Sexual Offences Prevention Order, he remains on the Sex Offenders' Register and he remains subject to a Probation Order.

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

Mr Gilmore submitted that the Certificate of Conviction was conclusive proof of the facts, and that the Council had discharged the burden of proof in establishing the facts in respect of the convictions. Mr Gilmore submitted that there has been no evidence from the Registrant that he is not the person referred to in the Certificate, or that he has successfully appealed his convictions.

Mr Gilmore referred the Committee to the letter received from the Disclosure and Barring Service ('DBS'), dated 23 March 2023, informing the Council that the Registrant has been barred from working with children and adults as of 11 February 2023. He referred the Committee to Paragraph 12 of Schedule 2 of the Rules, and submitted that the Registrant had not provided any evidence as set out at Paragraph 12 (7) to prove that he was not the person named in the Certificate of Conviction or the correspondence from the DBS, nor had he provided any evidence to show that he had appealed either the conviction or his current DBS status.

Finding of Facts

The Legal Adviser reminded the Committee that under Paragraph 12 (5) of Schedule 2 of the Rules, a certificate of conviction issued in any UK Criminal Court '*shall be conclusive proof of the facts or conviction so found*'. She advised the Committee that a registrant could challenge a certificate of conviction if it did not refer to them or where the conviction had been challenged successfully on appeal. She informed the Committee that it must be satisfied that the Certificate of Conviction in this case was issued by a competent Court of jurisdiction and that, in the absence of any other evidence, the Committee was entitled to rely on the Certificate of Conviction to establish conclusively that the Registrant was convicted of the offences as set out in the Particulars of the Allegation. She also advised the Committee that the Certificate of Conviction could be relied upon to establish the facts underlying the convictions. She advised the Committee that the correspondence from the DBS can be considered *prima facie* evidence, and directed the Committee to Paragraph 12 (6) of Schedule 2 of the Rules.

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 Gilmore on behalf of the Council, and had careful regard to all of the documentary evidence submitted. The Committee noted the facts contained in the Certificate of Conviction. Taking into account Paragraph 12 (5) of Schedule 2 of the Rules, the Committee concluded that the Certificate of Conviction was conclusive proof of the convictions set out at Particulars A1- A23.

The Committee accepted the written notification from the DBS of the Registrant's current barring status as *prima facie* evidence. The Committee noted that the date of birth referred to in the DBS correspondence is the same as the date of birth in the Certificate of Conviction. The Committee was satisfied that the correspondence referred to the Registrant. In addition, the Committee had no evidence that the Registrant was not the individual referred to by the DBS, nor was there evidence of a successful appeal against his inclusion on the DBS barred

lists. Taking into account Paragraph 12 (6) of Schedule 2 of the Rules, the Committee was satisfied that the decision from the DBS proved the facts in relation to Particulars B1 and B2.

The Committee found that, on the balance of probabilities, the facts contained in the Particulars of the Allegation had been established. The Committee, therefore, found the facts proved.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise is impaired. The Committee considered the submissions from Mr Gilmore on behalf of the Council, and had regard to all of the evidence in the case. Mr Gilmore submitted that the Registrant's fitness to practise is impaired on two grounds, firstly as a result of his convictions and, secondly, his inclusion on the DBS barred lists.

Mr Gilmore referred the Committee to the Standards of Conduct, and submitted that the Registrant's conduct which led to his convictions, and the decision of DBS to bar him from this field of work, was in breach of Standard 5; 5.8 and 5.9. Mr Gilmore submitted that there is a question of whether offences of this kind can be remediated. He submitted that, in any event, the Registrant has not remediated his conduct. The Registrant remains on the Sex Offenders' Register, he is subject to a Sexual Offences Prevention Order and a Probation Order. Mr Gilmore told the Committee that whilst the Certificate of Conviction refers to a requirement for the Registrant to attend a sexual abuse programme with the PBNI Intensive Supervision Unit, there was no evidence that he has done so.

In respect of the risk of repetition, Mr Gilmore submitted that the Council remains concerned that a risk of repetition remains. He submitted that given the duration of the offences and the volume of material, it would be extremely difficult to say that there is no risk of repetition.

Mr Gilmore submitted that the public should have confidence in the Council as a regulator to protect the public, and to ensure that those who care for the most vulnerable in society uphold proper standards of behaviour. He submitted that there would be a public expectation that a finding of impairment would be made in this case. Any option other than a finding of current impairment would impact on public confidence in the Council and in social care services. Furthermore, it would be a criminal offence for the Registrant to work or to be employed in social care. Mr Gilmore submitted that, in these circumstances, a finding of current impairment is required.

The Committee accepted the advice of the Legal Adviser. She referred the Committee to Paragraph 24 (3) of Schedule 2 of the Rules and the requirements as set out in the case of the GMC v Cohen, looking at the current competence and behaviour of the Registrant along with the need to protect service users, members of the public, the upholding of proper standards of behaviour and maintaining of public confidence in social care services. She further referred the Committee to the findings of Dame Janet Smith in the 5th Shipman Report as regards the potential causes of impairment. She also referred the Committee to the cases of GMC v Meadows 2006 and CHRE v NMC & Grant [2001] EWHC 927.

The Committee, in considering the issue of impairment of fitness to practise, took account of Paragraph 24 (3) of Schedule 2 of the Rules, which states that it should have regard to:

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

The Committee had regard to Rule 4 (d) of the Rules, which states that fitness to practise may be impaired by a conviction. The Committee was satisfied that the Registrant's convictions for serious offences constituted the reason for the alleged impairment of fitness to practise. The convictions, which related to the possession and the making of a number of indecent photographs / images of children, in the view of the Committee, call into question the Registrant's suitability to work in social care services without restriction or at all.

The Committee had regard to the Standards of Conduct and Practice for Social Care Workers. The Committee was satisfied that the Registrant's actions were in breach of the following Standards of Conduct:

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

- 5.8 Behave in a way, in work or outside work, which would call into question your suitability to work in social care services; or
- 5.9 Use social media or social networking sites or other forms of electronic communication in a way that contravenes professional boundaries, organisational guidelines or NISCC standards.

The Committee carefully considered the Registrant's convictions for making and possession of indecent photographs / images of children and his recent inclusion on the DBS barred lists, preventing him from working with children or vulnerable adults. The Committee concluded that the convictions were extremely serious, and that the Registrant had acted in a way that fell significantly short of the expected standard of a registered social care worker. The Committee was in no doubt that the Registrant's conduct had breached the fundamental tenets of social care services and, therefore, brought its reputation into disrepute. The Committee determined that the Registrant's conduct brings into question his suitability to work in social care services without restriction or at all.

The Committee was of the view that the Registrant's conduct which led to his convictions was capable of remediation, although it would be difficult. However, the Committee was in no doubt that the Registrant has not yet remediated his conduct. The Committee noted that the Registrant made admissions during the police interview and pleaded guilty to the charges found against him. However, the Committee had no information before it to show that the Registrant acknowledged the impact of his behaviour, demonstrated remorse or has shown insight into the seriousness of his actions.

The Committee had no evidence to suggest that the Registrant would act differently in the future. The Committee noted that these offences had occurred over a period of some years. As a result of the long period of offending and the volume of images, the Committee was concerned about the risk of repetition. The Committee considered that the DBS decision to prevent the Registrant from working with children and vulnerable adults was further evidence of the risk of repetition.

The Committee concluded that the Registrant's convictions brought social care services into disrepute, and that the public would be truly appalled that a registrant convicted in these circumstances was not found to be currently impaired. The Committee also accepted the point made by Mr Gilmore that in light of the DBS decision, it would be a criminal offence for the Registrant to work in social care. The Committee concluded that it would undermine the system of regulation if the Registrant were found not to be currently impaired.

Therefore, the Committee concluded that the Registrant's fitness to practise is currently impaired by reason of his convictions and his inclusion on the DBS barred lists.

Sanction

In reaching its decision on sanction, the Committee considered the submission from Mr Gilmore on behalf of the Council, and had regard to all of the evidence in this case. Mr Gilmore 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').

Mr Gilmore, in the absence of the Registrant, suggested mitigating factors as follows:

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

Mr Gilmore suggested the aggravating factors as follows:

- The Certificate of Conviction refers to extremely serious charges of sexual offences;
- The conviction shows a course of action which took place over a prolonged period of time;
- The Registrant has not engaged with the Council and provided no evidence of insight or remorse; and
- The Registrant has been included on the DBS barred lists.

As regards to sanctions, Mr Gilmore submitted that the only appropriate sanction would be that of removal. He submitted that the criminal convictions are of the utmost seriousness and are not at the lower end of the spectrum. He submitted that the Registrant's criminal behaviour was fundamentally incompatible with his continuing registration as a social care worker. In particular, he said that as there was no evidence of remediation, the public confidence in the social care sector would be undermined if the Registrant was allowed to remain on the Register. He noted that in addition to a Community Service Order and Probation Order, the Registrant is also on the Sex Offenders' Register. Mr Gilmore submitted that the continued registration of a registrant with such serious convictions would have a devastating impact on public confidence in the profession.

He referred the Committee to the Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance') and, in particular, Paragraph 4.62 – 5.5. He submitted that the only proportionate and appropriate sanction was a Removal Order, and that the Registrant's convictions constituted a serious departure from the relevant professional standards as set out in the Standards of Conduct and Practice for Social Care Workers.

The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Guidance, and reminded the Committee to consider the question of sanction in ascending order of severity, paying particular attention to the issue of proportionality.

She referred the Committee to Paragraph 26 of Schedule 2 of the Rules which provides that, upon a finding of impairment of fitness to practise, the Committee may:

- (a) impose no sanction; or
- (b) warn the Registrant and direct that a record of the warning should be placed on the Registrant's entry in the Register for a specified period of up to 5 years; or
- (c) make a Conditions of Practice Order for a specified period not exceeding 3 years; or
- (d) make an Order suspending the Registrant's registration for a specified period not exceeding 2 years (a 'Suspension Order'); or
- (e) make an Order for removal of the Registrant's registration from the Register ('a Removal Order').

She further reminded the Committee that in deciding which sanction to impose, the Committee should take into account:

- (a) the seriousness of the Particulars of the Allegation;
- (b) the degree to which the Registrant has fallen short of any expected standards;
- (c) the protection of the public;
- (d) the public interest in maintaining confidence in social care services; and
- (e) the issue of proportionality.

The Committee applied the principles of fairness, reasonableness and proportionality, weighing the public interest with the Registrant's interests, and taking into account any aggravating and mitigating factors in the case. The public interest includes the protection of members of the public including service users, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour within the profession. The Committee took into account its powers under Paragraph 26 of Schedule 2 of the Rules in relation to the sanctions available to it, and also had regard to the Guidance, bearing in mind that the decision on sanction is one for its own independent judgement.

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

The Committee considered the mitigating factors to be:

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

The Committee considered the aggravating factors to be:

- The Registrant has been convicted of 23 charges of extremely serious sexual offences, involving the making and possession of indecent photographs / images of children;
- The offences took place over a lengthy period of time;
- The Registrant remains on the Sex Offenders' Register, subject to a Probation Order and a Sexual Offences Prevention Order;
- The Registrant has not engaged with these proceedings or co-operated with the Council investigation; and
- There was no evidence of insight, regret or remorse from the Registrant.

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

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

Warning - the Committee considered the issue of a Warning in this case. The Committee considered that the Registrant's criminal convictions for extremely serious offences demonstrated a serious disregard for the Standards of Conduct and Practice for Social Care Workers. The Registrant's impairment of fitness to practise was not at the lower end of the spectrum, nor were the circumstances such that the Committee would be confident that this sanction would provide adequate public protection as far as the Registrant's suitability was concerned, bearing in mind that a Warning would entitle the Registrant to work unrestricted as a social care worker. The Committee determined this would be incompatible with the decision of the DBS. Therefore, a Warning would not be appropriate or proportionate to the serious nature of the convictions in this case.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Committee noted the Guidance at Paragraph 4.13, which states that conditions may be appropriate in cases involving particular areas of a registrant's performance, and where a Committee is satisfied that a registrant had displayed insight into their failings, and that there is potential for that registrant to respond positively to remediation, re-training or supervision of their work. The Registrant has demonstrated no insight into his criminal actions. The Registrant is subject to a Community Service Order, a Sexual Offences Prevention Order and a Probation Order. The Registrant has also been barred from working with adults and children, and must sign the Sex Offenders'

Register. Therefore, the Committee concluded that a Conditions of Practice Order was not sufficient to meet the public interest in this matter, given the seriousness of the Registrant's departure from the standards expected of a registered social care worker. In these circumstances, the Committee could not formulate workable, enforceable, or verifiable conditions which would address the Registrant's criminal behaviour and adequately protect the public.

Suspension Order – the Committee next considered a Suspension Order. The Committee noted that the criminal convictions of the Registrant were of an extremely serious nature, relating to the making and possession of indecent photographs / images of children. The Committee took into account the guidance at Para 4.19 which states: 'Suspension from the Register may be an appropriate sanction for impairment which while very serious, is not so serious as to justify removal from the Register; for example, where there has been an acknowledgment of failings and where a committee is satisfied that the behaviour is unlikely to be repeated'.

The Committee considered that the Registrant's criminal convictions evidenced behaviour that was fundamentally incompatible with registration as a social care worker. The Committee determined that a Suspension Order would not address the risk of repetition as identified above, or the public interest. The Committee had no evidence of insight or remediation from the Registrant, nor had it any information to indicate that the Registrant is unlikely to repeat his criminal behaviour in the future. The Committee considered that the public would view the Registrant's criminal behaviour as falling far below what would be expected of a registered social care worker. In all of the circumstances, the Committee concluded that a Suspension Order would not be sufficient to mark the seriousness and unacceptable nature of the Registrant's criminal convictions.

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

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

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

5. Examples of Impairment Relevant to the Sanction of Removal

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

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

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

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

Sexual Misconduct

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

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

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

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

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

You have the right to appeal this decision to the Care Tribunal. Any appeal must be lodged in writing within 28 days from the date of this Notice of Decision.

You should note that the Fitness to Practise Committee's decision takes effect from the date upon which it was made.

The effect of this decision is that your entry in the Register has been removed.
You are prohibited from working as a social care worker in any of the following positions:

1. A member of care staff at a:
 - a.) Children's home;
 - b.) Residential care home;
 - c.) Nursing home;
 - d.) Day care setting;
 - e.) Residential family centre.
2. A person who is supplied by a domiciliary care agency to provide personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
3. A manager of a:
 - a.) Residential care home;
 - b.) Day care setting;
 - c.) Residential family care centre; or
 - d.) Domiciliary care agency.

It is **compulsory** for the above social care workers to be registered with the Northern Ireland Social Care Council in order to work. This is pursuant to the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013 and the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers (Amendment) Regulations (Northern Ireland) 2017.

In accordance with Schedule 3, Paragraph 9 of the NISCC Fitness to Practise Rules, you may not apply to be restored to the Register within five years from the date of removal. This does not affect your right to appeal the Committee's decision to the Care Tribunal. You are prohibited from working in a social care role until a successful application for restoration onto the Register has been made to the Council.

PP 

Committee Manager

31 May 2023

Date