



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

REDACTED

Name: Shannon Harbinson

SCR No: 6025277

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **05 April 2024**, 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 20 April 2023, whilst being registered as a social 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. [You] on dates between 24 April 2021 and 13 August 2021, dishonestly made false representations, namely, that you were authorised to use a Danske bank card associated with the bank account of [REDACTED] with the intention, by making the representations, to make a gain for yourself or another or to cause loss to [REDACTED] or to expose her to a risk of loss, in breach of section 2 of the Fraud Act 2006, contrary to section 1 of the Fraud Act 2006.

And your actions, as set out above, show that your fitness to practise is impaired by reason of your conviction in the United Kingdom for a criminal offence.

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The Registrant was in attendance and was not represented. The Council was represented by Mr Peter Carson, Solicitor, Directorate of Legal Services.

Application for Private Hearing

The Committee heard an application from the Registrant for the entirety of the hearing to be conducted in private. The Registrant stated that this was because, in the course of the hearing, the Committee would hear evidence which touched upon her health.

Mr Carson did not object to the application.

The Committee heard and accepted the Legal Adviser's advice. In the course of that advice, the Legal Adviser referred the Committee to Paragraph 10 of Schedule 2 of the Northern Ireland Social Care Council's ('the Council') Fitness to Practise (Amendment) Rules 2019 ('the Rules'). The Legal Adviser reminded the Committee of the need to balance the Registrant's interests together with the public interest.

The Committee, having carefully considered the matter, decided that it would be appropriate to sit in private in the course of the proceedings when the Registrant's health was being considered. However, having accepted the Legal Adviser's advice, the Committee was of the view that the remainder of the hearing should be conducted in public.

Declarations of Conflict of Interest

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

Application to Admit Hearing Bundle

The Committee accepted the bundle into evidence, and marked it as Exhibit 1. The Committee also accepted a supplementary bundle from the Registrant which contained four references, from Anne Mercer, Jin Morison Da Silva, Kelly Lees and Victoria Buchan, and marked these as Exhibit 2.

Background and Evidence

Mr Carson told the Committee that the Registrant is registered on Part 1 of the Register as a social worker, the date of her first registration being 09 July 2020.

Mr Carson said that the Council received a referral form from a member of the public, **REDACTED** ('the referrer'), on 19 January 2022. The referrer stated that she had concerns regarding the Registrant. In the referral, the referrer described the Registrant as a 'de facto' granddaughter of the referrer's mother. The referrer stated that the Registrant was under police investigation in relation to the alleged theft from the referrer's mother's bank account '*to the sum of £3.3K between April and August 2021.*'

Mr Carson said that at the time of the referral, the Registrant was employed as a social worker by the Belfast Health and Social Care Trust ('the Trust').

Mr Carson told the Committee that the Council received a copy of the PSNI Case Summary, which set out that on 18 August 2021, the victim noticed an unusual transaction from her bank account and, upon reviewing further statements, discovered a number of other transactions which she did not make. The transactions included purchases from a Nike website and also a transaction with GATTI, which required a secure ID text message to the victim's phone. There were also a number of cash withdrawals. Mr Carson said that the total amount fraudulently taken by the Registrant from the victim was £3356.80.

Mr Carson told the Committee that the Registrant had been staying at the home of the victim four nights per week, and had access to her phone and purse. He said that the Council also received a copy of the Victim Personal Statement, which set out the emotional distress caused by the Registrant's actions.

Submissions

Mr Carson submitted that it was the Council's case that the Registrant's fitness to practise was impaired by reason of her conviction.

Mr Carson directed the Committee to the evidence contained within the hearing bundle, which included the Referral Form, the PSNI Outline of the Case, a witness statement, the Victim Personal Statement and the Certificate of Conviction.

Mr Carson asked the Committee to pay careful attention to the Certificate of Conviction. He submitted that the Certificate proved that on 07 March 2023, the Registrant pleaded guilty to the offence of fraud by false representation, and the Court imposed a Community Service Order on 20 April 2023. The Court ordered that the Registrant must reside in the **REDACTED**, and that she carry out 80 hours unpaid work over a 12-month period. The Registrant was ordered to pay a monetary penalty of £900 by 18 May 2023.

Mr Carson 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 this case.

The Registrant confirmed that she admitted the facts as set out in the Particulars of the Allegation.

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 convictions 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, 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.

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, and had careful regard to all of the documentary evidence submitted. The Committee noted the admissions made by the Registrant. The Committee concluded that the Certificate of Conviction was conclusive proof of the conviction and the underlying facts. The Committee, therefore, found the facts proved.

Fitness to Practise

The Committee proceeded to consider if the Registrant's fitness to practise is currently impaired. The Committee heard submissions from Mr Carson.

Mr Carson submitted that the Registrant's actions, which led to her conviction and Community Service Order, called into question her suitability to work in social care services and to remain on the Register without restriction, or to be registered at all. Mr Carson submitted that the Council would state that the Registrant's actions have fallen far below what is expected of a registered social worker. He directed the Committee to the Standards of Conduct and Practice (Standard 2, 2.1 and Standard 5, 5.8), and invited the Committee to determine that the Registrant's conviction, and the actions which led to her convictions, were in breach of these Standards.

Mr Carson submitted that the Registrant pleaded guilty on 07 March 2023, and was sentenced on 20 April 2023. He submitted that the offence could not be considered as a one-off incident as there were a number of fraudulent transactions from the victim's bank during the period between April 2021 and August 2021.

Mr Carson submitted that the level of insight was central to any determination on remediation. He informed the Committee that the Registrant made '*no comment*' responses during the police interview. He submitted that the Registrant subsequently pleaded guilty to the offence at Court and, in her written submission contained within the hearing bundle, that she accepted responsibilities for her actions.

In respect of the risk of repetition, Mr Carson submitted that it was the Council's view that there was a risk of repetition as the Registrant's actions were prolonged, deliberate, required a level of planning and were manipulative.

Mr Carson 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 any option other than a finding of current impairment would impact on public confidence in the Council and in social work services.

Registrant's Submission on Fitness to Practise

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In answer to questions from Mr Carson, the Registrant said that she understood that she was expected to be honest and truthful, and that her actions would inhibit trust and faith in a social worker. In response to Mr Carson's question as to what she could do to remediate her actions, she said that she could work and be placed under supervision / monitoring for any period, and would do whatever it would take to prove herself.

In relation to the impact of the conviction on the reputation of the profession, the Registrant said that '*it was not ideal*' and would be '*frowned upon*'. She accepted that an elderly service user would see her as a risk.

In answer to questions from the Committee, the Registrant confirmed that **REDACTED**

REDACTED. The Registrant said that she did not intend to go back to working in family and childcare but would consider a different area such as mental health, disability or probation. She said that she was getting a lot of help and had completed her community hours as documented in the Certificate of Conviction, and had paid the compensation.

The Committee considered the submissions from Mr Carson on behalf of the Council, the Registrant's submissions, and had regard to all of the evidence in the case. The Committee accepted the advice of the Legal Adviser. She advised that the Committee had to be satisfied that the findings which it had made in relation to the facts satisfied one of the statutory routes to impairment, and that the statutory ground in this case was that of conviction.

The Legal Adviser referred the Committee to Paragraph 24 (3) of Schedule 2 of the Rules, and the principles as set out in the case of the GMC v Cohen, in particular insight, remediation and risk of repetition. She reminded the Committee of the need to take account of the public interest which included 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 case of 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 conviction for a serious offence of fraud constituted the reason for the alleged impairment of fitness to practise.

In reaching its conclusion on current impairment, the Committee took into account the principles identified in CHRE v NMC & Grant and determined that all four limbs were engaged. It noted the Victim Impact Statement and the harm that the Registrant's actions had caused, that there was a breach of a fundamental tenet to the profession, that the profession had been brought into disrepute and that the Registrant had acted dishonestly.

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

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 worker, you must uphold public trust and confidence in social work services. In particular you must not:

5.8 Behave in a way, in work or outside work, which would call into question your suitability to work in social care services.

The Registrant has been convicted of fraud by false representation. In the view of the Committee, this constitutes a serious breach of trust and was a form of financial abuse. The Committee found that the Registrant's conviction for fraud by false representation evidenced that she had exploited the elderly victim on several occasions. The financial abuse occurred as a result of the access which the Registrant had to the home of the victim with whom she had a personal and long-standing relationship.

The Committee noted that in her written and oral submission, the Registrant stated that at the time of the offence **REDACTED.**

The Committee further noted that the Registrant, in her written submission, said '*I take full responsibility for my actions and make no excuse for what happened. I deeply regret the incident and have been trying to make amends since it happened... I feel ashamed about the hurt and financial loss I have caused the victim*'.

The Committee went on to consider if the impairment was capable of remediation. In the view of the Committee, the Registrant's behaviour, which led to her conviction, fell far below the standards which would be expected of a registered social worker. The Committee took into account the advice from the Legal Adviser in relation to an offence of dishonesty, and noted that dishonesty does not automatically lead to a finding of impairment and is capable of remediation.

The Committee noted that the Registrant stated in her written submission that she had been trying to make amends since the incident, that she had completed her Community Service hours and had paid the

compensation directed by the Court. The Committee further noted that the Registrant had continued to seek help and support **REDACTED**.

The Committee determined that whilst the Registrant submitted that she had taken steps to *'make amends'*, there was no evidence before the Committee to satisfy it that the Registrant had remediated her behaviour, other than by complying with the conviction in paying the compensation and carrying out the Community Service hours required of her. The Committee noted that the Registrant had demonstrated some level of insight in her written and oral submissions, but that her insight was limited. The Committee took into account the serious and repeated nature of the offence, and the premeditated planning required to carry out her actions over several months. In the absence of full remediation and insight into the impact which her actions had on the victim and on the wider public, the Committee considered that a risk of repetition remained.

The Committee 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 work 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 nature of the conviction in this case.

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

Sanction

In reaching its decision on sanction, the Committee considered the submissions from Mr Carson on behalf of the Council, the submissions from the Registrant, and had regard to all of the evidence in the case. Mr Carson referred the Committee to the mitigating and aggravating factors. He said that the Registrant had no previous referrals to the Council. He said that the Council accepted that the Registrant had been experiencing **REDACTED** during the time of the incidents. He said that the report from **REDACTED** indicates that her difficulties did not cause the offences. However, he submitted that it is still appropriate to note that these **REDACTED** were present.

In regards to aggravating factors, Mr Carson said that Registrant used her position as a de facto member of the family to take financial advantage of an 84 year old lady. He said that the Registrant's fraud took a considerable amount of planning and involved taking the victim's phone as well as her bank cards, and that the amount of money fraudulently taken by the Registrant was substantial, being over £3000. He also said that the fraud only stopped when the victim discovered unauthorised payments leaving her account.

Mr Carson submitted that in the view of the Council, the Registrant's actions were fundamentally incompatible with registration as a social worker, and invited the Committee to consider imposing a Removal Order.

Registrant's Submission on Sanction

The Registrant asked the Committee to consider a different sanction than the sanction suggested by the Council. She said that the offence occurred over three years ago, and she informed the Committee that the probation report disclosed that there was a low risk of her repeating her behaviour. She said that she had done everything required of her, and that she has completed the 80 hours of Community Service and paid the compensation ordered by the Court.

The Registrant said that she would love the opportunity to be a social worker in the future.

The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Northern Ireland Social Care Council Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('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 and proportionality, weighing the public interest with the Registrant's interests, and taking into account the 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 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:

- The Registrant pleaded guilty at Court;
- The Registrant has accepted responsibility for her actions, has shown some level of insight and has indicated that she is ashamed;
- The Registrant has been open and honest with the Committee;
- The Registrant has attended and engaged with the regulatory proceedings; and
- The Registrant has the benefit of a previous good working history.

The Committee considered the content of the four undated character references that had been provided by the Registrant on 04 April 2024, the authenticity of which had been verified by the Council. It noted that the references were provided by people who had known the Registrant in a personal capacity.

The Committee considered the aggravating factors to be:

- A breach of trust in that the fraud by false representation involved theft from her elderly victim, with whom she had a close relationship over many years;
- The Registrant's actions were repeated, premeditated and involved several steps in order to defraud the elderly victim;
- There was a substantial amount of money involved in the fraud and took place over four months; and
- The emotional and financial impact on the elderly victim.

The Committee previously found that the Registrant's conviction meant that her actions fell far below the standards which could be expected of a registered social worker. The Committee had also found that there was a risk of repetition, a lack of full insight and limited remediation.

Having balanced the aggravating and mitigating factors, and in considering the interests of public protection and the public interest, the Committee proceeded to decide 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 case, 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, 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, and that a Warning would not address the risk of repetition. The Committee determined that a Warning would not be proportionate in the circumstances of this case.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Registrant's conviction for fraud by false representation was not something which could be addressed through re-training 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 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 Order – 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 that the Registrant's conduct had fallen far below the standards to be expected of a registered social worker.

The Committee carefully considered the issue of proportionality, and whether suspension would address the concerns which it had identified. The Committee noted paragraph 4.19 of the Guidance which states:

'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 noted the Registrant's written and oral submission, that the Registrant had demonstrated limited insight and that it considered there to be a risk of repetition. The Committee noted that the fraud was perpetrated over a number of months and involved an elderly victim, and that the concerns are attitudinal. The Committee considered the public interest, and determined that the public would perceive the Registrant's criminal behaviour as falling far short of what would be expected of a registered social 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, and that her dishonest behaviour was fundamentally incompatible with remaining on the Register.

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

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

satisfactory remediation and where confidence in the social care profession would be undermined by allowing the Registrant to remain on the Register.'

It concluded that, given the seriousness of the Registrant's criminal conviction and her lack of full insight and remediation, 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 actions constituted a very serious departure from the professional standards as set out in the Standards of Conduct and Practice for Social Care Workers. The public is entitled to expect that social care workers will be honest and trusted to provide care to the most vulnerable in society. The Committee took into account the Guidance at Paragraph 5.13, which states:

'Dishonesty, particularly when associated with professional practice, is so damaging to a Registrant's suitability and to public confidence in social care services that removal may be considered to be the appropriate outcome.'

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 and responsible profession. It noted the serious emotional and financial harm suffered by the elderly victim.

The Committee was satisfied that the Registrant's conviction was serious and was fundamentally incompatible with continued registration. Public confidence in the Council and in social work services would be undermined if a social worker who was convicted of such a serious offence 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 **REDACTED**. However, balancing all of the factors in this case, and after taking into account all of the evidence, the Committee determined that the appropriate and proportionate sanction was that of a Removal Order. Having regard to the effect of the Registrant's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered social worker should conduct themselves, the Committee concluded that nothing short of removal would be sufficient.

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.

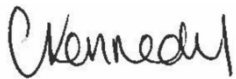
You have the right to appeal this decision to the Care Tribunal. Any appeal must be lodged in writing within 28 days from the date of this Notice of Decision.

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.

It is compulsory for all qualified social workers to be registered with the Northern Ireland Social Care Council in order to work. If you practise as a qualified social worker, you will be guilty of an offence pursuant to Article 8 of the Health and Personal Social Services Act (Northern Ireland) 2001. Article 8 states that if a person who is not registered as a social worker in any relevant Register takes or uses the title of social worker or any description implying that s/he is registered as a social worker, or in any way holds him/herself out as registered, s/he is guilty of an offence.

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.



10 April 2024

Hearings Officer
(Clerk to the Fitness to Practise Committee)

Date