



**Notice of Decision of the Northern Ireland Social Care Council's Fitness to Practise Committee
SUSPENSION ORDER REVIEW HEARING**

Name: Joel Adrian McPeake

SCR No: 7005760

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **18 July 2024**, made the following decision about your registration with the Northern Ireland Social Care Council:

The Committee found that your fitness to practise is currently impaired;

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

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Issues

The fitness to practise review hearing was held remotely by way of video-link. The Registrant was not in attendance, nor was he represented. The Council was represented by Ms Sinead Owens, Solicitor, Directorate of Legal Services.

Declarations of Conflict of Interest

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

Service

Ms Owens advised the Committee that a Notice of Review Hearing and hearing bundle were sent to the Registrant's registered email address on 18 June 2024, and that an electronic delivery receipt was received on the same date.

Accordingly, the Committee was satisfied that the Notice of Review Hearing had been served in accordance with Rule 3 and Paragraph 33 (5) of Schedule 2 of the Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019 (the Rules’).

Proceeding in the Absence of the Registrant

Ms Owens invited the Committee to proceed with the hearing in the Registrant’s absence. She told the Committee that the Committee Clerk had placed a telephone call to the Registrant’s registered telephone number, on 04 July 2024, to confirm if he would be in attendance at the hearing, and left a voicemail asking him to return the telephone call or to confirm by way of email if he would be in attendance. There had been no response to the service email or to the telephone call. Ms Owens told the Committee that at 09:20 am on the morning of the hearing, the Registrant called the Committee Clerk to confirm, initially, that he would be in attendance at the hearing. When asked whether he had any evidence to provide to the Committee, he indicated that he intended to contact his Probation Officer and ask her for a report. Subsequent to this, a report was received from the Registrant’s Probation Officer. During a further conversation with the Registrant, after receipt of the report, the Registrant told the Committee Clerk that he had changed his mind regarding the hearing and would not be in attendance. Ms Owens advised the Committee that the Registrant also confirmed in this telephone conversation that the Committee could proceed in his absence.

Ms Owens submitted that the Registrant, by his actions, had chosen deliberately to absent himself from the hearing and that it was appropriate to proceed in his absence. She noted that the Registrant had not requested an adjournment, and that the Suspension Order in place against him is due to expire on 01 August 2024. She submitted that the public interest in this hearing proceeding outweighed the interests of the Registrant.

The Committee heard and accepted the advice of the Legal Adviser, who reminded the Committee that the decision to proceed in the absence of the Registrant should be exercised with the utmost care and caution. The Committee was satisfied that the Registrant had been served with the Notice of Review Hearing, which notified him of the date, time and venue for this hearing and his right to attend the hearing.

The Committee took into consideration the detail in the Notice of Review Hearing, and the subsequent telephone calls with the Registrant regarding his attendance. The Committee noted the Registrant’s initial intention to attend the hearing, and his subsequent change of mind in this regard. Therefore, in all of the circumstances, the Committee was satisfied that the Registrant had voluntarily waived his right to attend the hearing, and that no useful purpose would be served by adjourning the hearing to a future date to enable the Registrant to be in attendance and / or be represented. This was a review of a Suspension Order which will expire on 01 August 2024. Any decision to adjourn the hearing beyond this date would result in the Order expiring, which would in turn permit the Registrant to practise unrestricted.

In these circumstances, the Committee decided that it was fair, appropriate and proportionate to proceed in the absence of the Registrant.

Background and Council's Submissions

This is the first review of a Suspension Order imposed by the Fitness to Practise Committee on 02 November 2023. The Order is due to expire on 01 August 2024.

That Committee found the following Particulars of the Allegation proved:

That, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you were convicted on 10 November 2022 of the following offences at the Magistrates' Court:	
1.	Charge 1: [You] on the 22nd October 2021 unlawfully had in your possession a controlled drug of Class B of Schedule 2 to the Misuse of Drugs Act 1971 namely cannabis in contravention of section 5(1) of the Misuse of Drugs Act 1971 contrary to Section 5(2) of the Misuse of Drugs Act 1971
2.	Charge 2: [You] on 22nd October 2021 had in your possession a controlled drug of Class B of Schedule 2 to the Misuse of Drugs Act 1971 namely cannabis with intent unlawfully to supply it to another in contravention of section 4(1) of the Misuse of Drugs Act 1971 contrary to section 5(3) of the Misuse of Drugs Act 1971
3.	Charge 5: [You] on the 16th day of August 2021, offered to supply a controlled drug of Class B, namely cannabis, to another in contravention of section 4(1) of the Misuse of Drugs Act 1971, contrary to Section 4(3)(a) of the Misuse of Drugs Act 1971
4.	Charge 6: [You] on the 3rd day of August 2021, offered to supply a controlled drug of Class B, namely cannabis, to another in contravention of section 4(1) of the Misuse of Drugs Act 1971, contrary to Section 4(3)(a) of the Misuse of Drugs Act 1971
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 criminal offences.	

Following its finding, the Fitness to Practise Committee which made the original Order found the Registrant's fitness to practise to be currently impaired by reason of his convictions on public protection and public interest grounds. Further, the Fitness to Practise Committee which made the original Order, as a sanction, imposed a nine-month Suspension Order on the Registrant's registration.

Ms Owens told the Committee that the Registrant had attended the fitness to practise hearing in November 2023, and had received the Notice of Decision by way of email, dated 07 November 2023. She said that the Council had written to the Registrant on 09 November 2023 to advise him that the Council would write to him again approximately 12 weeks prior to the expiry of the Suspension Order to set out what evidence might be of assistance to a Fitness to Practise Committee which was required to conduct a review of the Suspension Order before its expiry. Ms Owens outlined that such further correspondence was sent to the Registrant on 10 May 2024. There was no reply to that correspondence by the Registrant, and no evidence was presented by him to demonstrate that he had remedied the conduct which had resulted in his convictions, and that he was no longer currently impaired.

Ms Owens noted that the Registrant was described in the decision of the Fitness to Practise Committee which made the original Order as caring and not wanting to lose his registration. She further noted that the Fitness to Practise Committee which made the original Order considered that a period of suspension would provide the Registrant with the opportunity to show commitment to registration, and to complete his period of probation. She noted the email dated 18 July 2024 from the Probation Board of Northern Ireland ('PBNI'), which confirms that the Registrant completed a period of one year and six months' probation, along with a substance misuse programme. However, she noted that the Registrant had not provided any written submission for consideration by this Committee and that, in these circumstances, his fitness to practise remained impaired.

Decision on Current Fitness to Practise

This is the first mandatory review of a nine-month Suspension Order made against the Registrant.

The Committee heard and accepted the legal advice from the Legal Adviser. She referred the Committee to the case of CHRE v NMC and Grant. She referred the Committee to Paragraph 33 of Schedule 2 of the Rules. She reminded the Committee that it was not to review the findings made by the Fitness to Practise Committee which made the original Order, but was instead required to conduct a review of the evidence before the Committee today, and to exercise its independent judgement as to whether the Registrant remains currently impaired. She advised the Committee that it should consider any evidence or information to show that the Registrant has demonstrated remediation or insight. The Committee was reminded that it is assessing current impairment and was required to take into account any evidence of remediation, insight and risk of repetition. The Committee was also reminded of the need to take account of the wider public interest, which includes upholding standards and maintaining confidence in the regulatory process.

The Committee gave careful consideration to the submission from Ms Owens on behalf of the Council and the documentary evidence, namely, the email received from the PBNI on 18 July 2024, the morning of the hearing. The Committee reminded itself that impaired fitness to practise describes those circumstances which call into question the suitability of a registrant to remain on the Register, or to be registered at all. In that regard, the Committee noted the findings made by the Fitness to Practise Committee which made the original Order in relation to the question of the Registrant's current impairment. That Committee stated as follows:

'The Committee addressed itself to the Registrant's insight and remediation. The Committee concluded that the events which led to the convictions were capable of remediation. The Committee noted that the Registrant had engaged successfully with Probation Services, and continued to engage with them. However, the Committee noted that the Registrant was still subject to a Probation Order through to May 2024. The Committee noted the decreased frequency of probation visits and the Registrant's recognition of his problems. Whilst the Committee considered that the Registrant's behaviour was capable of remediation, it was not convinced that full remediation had taken place and, therefore, a risk of repetition remained.'

The Committee accepted that the Registrant had displayed some insight into the impact of his criminal convictions, and noted that he now had different friends and a different partner, which had given him a new outlook on life. The Committee also noted that the Registrant pleaded guilty to the four charges against him.

The Committee concluded that a finding of current impairment of fitness to practise was necessary in the public interest. The Committee considered that the Registrant's criminal convictions, which were serious, brought the social care profession into disrepute and damaged the reputation of the profession. The Committee noted that the Registrant, in addition to a conviction for possession of cannabis, was convicted of possession of cannabis with intent to supply and two counts of offering to supply cannabis. In these circumstances, it was considered by the Committee that public confidence in the social care profession, and the Council as its regulator would be undermined if a finding of impaired fitness to practise in these circumstances was not made.

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

This Committee agreed with the Fitness to Practise Committee which made the original Order that, in principle, the conduct which had resulted in the Registrant's convictions was capable of remedy. The Committee next considered whether in fact the Registrant had remediated the conduct which had resulted in his convictions. In that regard, this Committee noted that the Fitness to Practise Committee which made the original Order had stated as follows:

'The Committee noted that the Registrant is presently subject to a Probation Order and had successfully completed a Court ordered programme. He continues to attend his Probation Officer on a monthly basis. The Committee noted that a Suspension Order would be reviewed at the conclusion of the period of suspension, and that the Registrant would have the opportunity to demonstrate to the Council his commitment to unrestricted registration and compliance with the Probation Order. The public would be sufficiently protected by a period of suspension for nine months. This period would mark the seriousness of the Registrant's criminal behaviour, allow him time to fully comply with the Probation Order and present evidence to the Council of full remediation and that his fitness to practise is no longer impaired.'

The Committee noted the efforts made by the Council to obtain information and evidence from the Registrant as regards both his completion of his period of probation and any insight and remediation. The Committee noted that at a very late stage, namely, the day of the hearing, and after further requests made by the Council, the Registrant arranged for information to be provided by the PBNI. The Committee took into account the information from the PBNI on 18 July 2024, which stated as follows:

'As requested from yourself, since his last appearance before the Council, Mr McPeake has completed a period of 1 year and 6 months' Probation.

During this period, Mr McPeake completed a substance misuse programme.

He attended as required and completed any further offence focused work that was expected of him.

Mr McPeake is no longer open to our service at this time; therefore I am unable to comment on his current circumstances.'

The Committee noted that the Registrant had not provided a written submission, nor attended to give oral evidence at the hearing. Therefore, the Committee had no evidence to demonstrate that the Registrant had developed full insight into the impact of his convictions. Whilst the Committee took into account the information that the Registrant has completed a substance misuse programme, there was no evidence presented by the Registrant to demonstrate full insight into how he had remediated his conduct, or that he wished to return to work in social care. The Registrant failed to provide any written submission for consideration by the Committee, or attend to give evidence as regards his understanding of the impact of his convictions on the public and those engaged in the provision of social care. In view of the Registrant's lack of full insight, remediation and very limited engagement, the Committee could not be satisfied that there was no risk of repetition of the Registrant's misconduct in the future.

The Committee, in the absence of evidence of full insight and remediation, also concluded that it was necessary to make a finding of current impairment on public interest grounds. The Committee considered that a failure to make such a finding in circumstances such as these, in which the Registrant had failed to put before the Committee evidence of insight and remediation, would fail to declare and uphold proper standards and would undermine the public's trust and confidence in the social care workforce.

For these reasons, the Committee found that the Registrant's fitness to practise is currently impaired.

Sanction

Having found that the Registrant's fitness to practise is currently impaired, the Committee then considered what sanction it should impose. The Committee noted the powers as set out in Paragraph 33 (8) of Schedule 2 of the Rules, and took into consideration the NISCC Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees 2017 ('the Guidance'), bearing in mind that the decision on sanction is one for the Committee's independent judgement.

Ms Owens told the Committee that it was the Council's position that the Suspension Order should not be allowed to lapse, and that a Conditions of Practice Order would be insufficient in the circumstances. She submitted that, in light of the Registrant's failure to engage with the Council following the imposition of the Suspension Order, and the absence of evidence of insight and remediation, she would invite the Committee to consider imposing a further Suspension Order, or placing a Removal Order on the Registrant's registration.

The Committee heard and accepted the advice of the Legal Adviser.

The Committee was aware of its powers as set out at Paragraph 33 (8) of Schedule 2 of the Rules. The Committee, in addition to the powers set out in this Paragraph, may allow the Suspension Order to run its course and expire on 01 August 2024. The Committee took into account the need to act proportionately, and that the purpose of sanction is not punitive. Taking into account the findings of the Fitness to Practise Committee which

made the original Order as regards the Registrant's serious misconduct and the risks identified above, the Committee did not consider it appropriate to allow this Order to expire.

The Committee noted the findings of the Fitness to Practise Committee which made the original Order on 02 November 2023 and, in particular, its recommendations that at any review hearing, the Registrant would have an opportunity to present evidence of full insight and completion of the probation period. The Committee considered, and took into account, the mitigating and aggravating findings of the Fitness to Practise Committee which made the original Order. The Registrant has not availed of the time since the Suspension Order was put in place to provide evidence of full insight and remediation, despite being requested to do so by the Council. The Committee did take into account the recently supplied information from the PBNI.

Conditions of Practice Order - the Committee noted that the Registrant, since being made the subject of a Suspension Order, has failed to engage in a meaningful way with the Council. He has not provided evidence of full insight into his failings. There was also no evidence before the Committee that the Registrant would be willing to comply with a Conditions of Practice Order. The Committee had no information as regards the Registrant's current employment, nor if he wished to return to work in the social care sector. The Committee could not formulate workable, enforceable or verifiable conditions which would address the Registrant's criminal behaviour, adequately protect the public and address the wider public interest. The Committee concluded that a Conditions of Practice Order would be insufficient to protect the public and uphold the public interest.

Suspension Order - the Committee next considered imposing a further Suspension Order to take effect at the expiry of the existing Order. The Committee was of the view that the conduct underlying the convictions which were found proved at the previous hearing, although serious, was capable of remedy. The period of suspension was designed to provide the Registrant with the opportunity to reflect on the cause of his offending, to learn from his past mistakes and to ensure that it would not be repeated in the future. However, the Registrant has not engaged with the Council and, in particular, has not provided evidence of any insight or steps which he has taken since his suspension to address the conduct which resulted in his convictions, and to assure this Committee that there would be no repetition. Accordingly, the Committee saw no useful basis upon which to impose a further Suspension Order, as there was nothing to suggest that the Registrant would take any action to resolve or remedy the cause of his offending during a further period of suspension.

Removal Order – after careful consideration, the Committee determined to revoke the Suspension Order and impose a Removal Order in accordance with Paragraph 33 (8) (g) of Schedule 2 of the Rules. The Committee concluded that removal from the Register is the only appropriate and proportionate sanction. The Committee concluded that the Registrant's conduct, compounded by his lack of full insight and remediation, as well as the Registrant's lack of engagement with the review hearing process, was fundamentally incompatible with his remaining on the Register as a registered social care worker. The Committee further concluded that to impose any lesser sanction would fail to protect the public, would fail to declare proper standards of conduct and would seriously undermine the public's trust and confidence in the social care workforce.

The Committee considered the potential devastating impact of a Removal Order on the Registrant, but concluded that public safety and the public interest outweigh the impact on the Registrant.

The Committee determined that a Removal Order was a 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.



23 July 2024

Hearings Officer
(Clerk to the Fitness to Practise Committee)

Date