



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

Name: Michael Gerard Curoe

SCR No: 6032700

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **15 August 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 convictions and your inclusion on a list 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 on the 16 May 2023, whilst being registered as a social care worker, under the Health and Personal Social Services Act (Northern Ireland) 2001(as amended), you were convicted of the following criminal offences at the Belfast Crown Court:

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| 1. | <u>Count 1</u> - Defendant on the 24th day of August 2019, distributed or showed an indecent photograph or pseudo photograph of a child, namely a Category A video fc52aab0-302d-430e-a032-e0979b11e228.mp4. contrary to Article 3(1)(b) of the Protection of Children (Northern Ireland) Order 1978; |
| 2. | <u>Count 2</u> - Defendant on the 24th day of August 2019, distributed or showed an indecent photograph or pseudo photograph of a child, namely a Category A video 21a91ea8-c36f-4a3c-bb16-91b9464b32c3.mp4. contrary to Article 3(1)(b) of the Protection of Children (Northern Ireland) Order 1978; |
| 3. | <u>Count 4</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category A image with File name xOYDIILL. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978; |

4.	<u>Count 5</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category A image with File name IGQjjKCR. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
5.	<u>Count 6</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category A video with File name 21a91ea8-c36f-4a3c-bb16-91b9464b32c3.mp4. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
6.	<u>Count 7</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category A video with File name fc52aab0-302d-430e-a032-e0979b11e228.mp4. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
7.	<u>Count 9</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category B image with File name cLIn 1S6S. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
8.	<u>Count 10</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category B image with File name EGAhGQIB. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
9.	<u>Count 11</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category B image with File name tTIBFY6C. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
10.	<u>Count 12</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category B image with File name wGZhkCKY. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
11.	<u>Count 14</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category C image with File name kOZhGS6Q. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
12.	<u>Count 15</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category C image with File name waAllabT. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
13.	<u>Count 16</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category C image with File name ICRTAYDK. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978;
14.	<u>Count 17</u> - Defendant on the 20th day of November 2019, made an indecent photograph or pseudo photograph of a child, namely a Category C image with File name ygMFDQIT. contrary to Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.

15.	On 15 May 2024, the Disclosure and Barring Service included your name in the Children’s Barred List using barring powers as defined in Schedule 1 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (SVGGO);
16	On 15 May 2024, the Disclosure and Barring Service included your name in the Adults’ Barred List using barring powers as defined Schedule 1 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (SVGGO).
Your actions as set out at 1 – 14 above show that your fitness to practise is impaired by reason of your convictions in the United Kingdom for a criminal offence.	
And your actions as set out at 15 – 16 above show that your fitness to practise is impaired by reason of your inclusion on a list maintained by the Disclosure and Barring Service.	

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Matters

The fitness to Practise hearing was held remotely via video link. The Registrant was not in attendance and was not represented. The Council was represented by Mr Peter Carson, Solicitor, Directorate of Legal Services.

Service

Mr Carson told the Committee that the Notice of Hearing and hearing bundle were sent to the Registrant’s registered email address on 09 July 2024, and that an electronic proof of delivery receipt was received on the same date. He said that on 05 August 2024, the Committee Clerk called the Registrant’s registered mobile number to confirm if he would be in attendance at the fitness to practise hearing. However, an automated message was received to say that the mobile number dialled was not recognised.

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 Northern Ireland Social Care Council Fitness to Practise (Amendment) Rules 2019 (‘the Rules’), and the requirements of Paragraph 5 of Schedule 2 of the Rules. The Committee was also satisfied that reasonable efforts had been made to inform the Registrant of the hearing today.

Proceeding in the Absence of the Registrant

Mr Carson made an application to proceed in the absence of the Registrant under Paragraph 15 of Schedule 2 of the Rules, and submitted that the Committee should hear and determine the case in his absence. Mr Carson said that the Council had received electronic proof of delivery of the Notice of Hearing and 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 said that the Registrant had not asked for an adjournment, and that

there was no indication that the Registrant was any more likely to attend if the hearing was adjourned to a later date. 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. He referred the Committee to the case of R v Jones 2003 1 AC. He 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. He 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 had received the Notice of Hearing and hearing bundle, and that electronic proof of delivery was available;
- 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 did not seek 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 was some disadvantage to the Registrant in proceeding in his absence, this disadvantage was 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.

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 had any conflict of interest with this case.

Background & Submissions

Mr Carson told the Committee that the matter first came to the attention of the Council by way of a letter from the PSNI, dated 12 February 2021. The letter informed the Council that whilst the Registrant was being investigated in relation to another matter, an examination of his mobile device occurred and indecent images were discovered. The letter also disclosed that the Registrant initially did not indicate that he worked in social care but suggested that he was employed as a shop worker.

Mr Carson said that the letter from the PSNI also advised that the Registrant had been released on bail conditions, whereby he was not to have unsupervised contact with anyone under the age of 18, and he was not to be in possession of any electronic device not capable of saving usage history.

Mr Carson also referred the Committee to the Employer Referral Form that was received by the Council from Ann's Nursing Care on 17 Feb 2021.

Mr Carson directed the Committee to the Case Summary provided by the police, which sets out the background and the context. He told the Committee that during the PSNI Interview, the Registrant made admission of being in possession of indecent images of children. Mr Carson submitted that it was the Council's case that the Registrant's fitness to practise is impaired by reason of his convictions, and also being included on a list maintained by the Disclosure and Barring Service ('DBS'). 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 Carson asked the Committee to pay careful attention to both the Certificate of Conviction and the letter from DBS contained within the bundle of evidence. He submitted that the Certificate of Conviction provided evidence that the Registrant pleaded guilty on 14 December 2023 to 14 offences, which related to the Registrant having distributed, showed and made indecent photographs of children. He said that three offences were left on the books.

Mr Carson told the Committee that these offences were dealt with in the Crown Court, and that the Registrant was sentenced to the following:

- Sex Offenders' registration required for five years;
- Sexual Offences Prevention Order for five years; and
- Probation Order for three years.

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 respect of the convictions. Mr Carson submitted that

there has been no evidence from the Registrant that he is not the person referred to on the Certificate, or that he has successfully appealed his convictions.

Mr Carson referred the Committee to the letter received from the DBS, dated 04 June 2024, informing the Council that the Registrant had been barred from working with children and adults as of 15 May 2024. 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*'. He 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. He 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. He also advised the Committee that the Certificate of Conviction could be relied upon to establish the facts underlying the convictions. He 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 Carson 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 1 - 14.

The Committee was satisfied that the correspondence from the DBS referred to the Registrant, and that there was no 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 15 and 16.

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 Carson on behalf of the Council, and had regard to all of the evidence in the case. Mr Carson submitted that the Registrant's fitness to practise is impaired on two grounds - first as a result of his convictions and, secondly, his inclusion on the DBS barred lists.

Mr Carson referred the Committee to the Standards of Conduct, and submitted that the Registrant's conduct which led to his convictions, and the decision of the DBS to bar him from this field of work, was in breach of Standard 5; 5.8.

In respect of the risk of repetition, Mr Carson submitted that the Council remains concerned that a risk of repetition remains. He said that the Registrant did not deny being in possession of indecent images of children, which shows limited evidence of insight. However, the Registrant has not provided any evidence to the Council or this Committee of insight or any steps which he has taken to remediate his actions.

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 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. Mr Carson submitted that, in these circumstances, a finding of current impairment is required and that any other outcome would be alarming and concerning to any member of the public.

The Committee accepted the advice of the Legal Adviser. He referred the Committee to Paragraph 24 (3) of Schedule 2 of the Rules. He referred the Committee to Rule 4 (1) (d) and (f). He also referred the Committee to the cases of GMC v Meadow [2006] EWCA Civ 1390 and GMC v Yeong [2009] EWHC 1923 (Admin).

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 was satisfied that the Registrant's convictions for serious offences constituted the reason for the alleged impairment of fitness to practise. The convictions, which relate to the distribution 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.

The Committee carefully considered the Registrant's convictions for making and distributing of indecent 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 are extremely serious, and that the Registrant 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 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 is 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 occurred over multiple dates. The Committee was concerned about the risk of repetition and considered the said risk to be high. 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 bring 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 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 Carson on behalf of the Council, and had regard to all of the evidence in this case. Mr Carson 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 Carson, 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 Carson suggested the aggravating factors as follows:

- The Certificate of Conviction refers to the sending and receiving of indecent images of children, most of which were deemed as Category A;
- The Registrant lied about his profession and indicated that he worked in a shop; and
- The conviction shows a course of action which occurred on multiple occasions.

As regards to sanctions, Mr Carson 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 Probation Order, the Registrant is also on the Sex Offenders' Register and subject to a Sexual Offences Prevention Order. Mr Carson submitted that the continued registration of a registrant with such serious convictions would have a negative 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'). 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. He 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.

He 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').

He 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 is 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 referrals to the Council; and
- The Registrant made admissions during his police interviews, and pleaded guilty to the majority of criminal charges made against him;

The Committee considered the aggravating factors to be:

- The Registrant has been convicted of 14 charges of extremely serious sexual offences, involving the making and distributing of indecent images of children (including Category A material);
- The offences occurred on multiple occasions;
- The Registrant lied to police regarding his occupation;
- The Registrant remains on the Sex Offenders' Register, subject to a Probation Order and a Sexual Offences Prevention Order;
- The Registrant remains on lists maintained by the DBS;
- 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 demonstrate a serious disregard for the Standards of Conduct and Practice for Social Care Workers. The Registrant's impairment of fitness to practise is not at the lower end of the spectrum, nor are the circumstances such that the Committee would be confident that this sanction would provide adequate public protection as far as the Registrant's suitability is 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 due 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 not demonstrated any remediation. The Registrant is subject to 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 are of an extremely serious nature, relating to the making and distributing of indecent 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 is 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 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.*

...

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 is 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 outweigh the impact on the Registrant.

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.

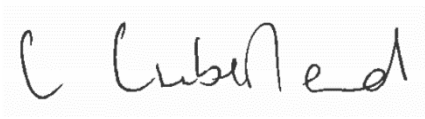
The effect of this decision is that your entry in the Register has been removed.

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.



Committee Manager

20 August 2024

Date