



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

Name: Malgorzata Skwara

SCR No: 2040842

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **17 February 2025**, 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;

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

Particulars of the Allegation:

That on 21 August 2024, 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 Magistrates' Court:	
1.	Charge 1: Defendant on the 27/12/23, stole CASH to the value of £20 or thereabouts belonging to [REDACTED] contrary to Section 1 of the Theft Act (Northern Ireland) 1969
2.	Charge 2: Defendant on the 29/12/23 stole CASH to the value of £20 or thereabouts belonging to [REDACTED] contrary to Section 1 of the Theft Act (Northern Ireland) 1969
3.	Charge 3: Defendant on the 02/01/24, stole CASH to the value of £20 or thereabouts belonging to [REDACTED] contrary to Section 1 of the Theft Act (Northern Ireland) 1969
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.	

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Issues

The fitness to practise hearing was held at the Council's offices in James House, Belfast. The Registrant was not in attendance, nor was she 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 told the Committee that the Notice of Hearing and hearing bundle were sent to the Registrant's registered email address on 19 December 2024, and that proof of delivery was received on the same date.

The Committee received legal advice from the Legal Adviser. He referred the Committee to the requirements as set out in the Northern Ireland Social Care Council's ('the Council') Fitness to Practise (Amendment) Rules 2019 ('the Rules') and, in particular, Rule 3 which states that proof of service shall be treated as being effected on the day after it was properly sent.

The Committee, in all of the circumstances of the case, is satisfied that the Notice of Hearing has been served in accordance with Rule 3 of the Rules, and the requirements of Paragraph 5 of Schedule 2 of the Rules.

Proceeding in the Absence of the Registrant

Ms Owens made an application to proceed in the absence of the Registrant. Ms Owens told the Committee that the Committee Clerk called the Registrant's registered mobile telephone number on 10 February 2025 to confirm if the Registrant would be in attendance at the hearing. The Registrant confirmed that she would check her current working rota and return the telephone call in ten minutes. The Registrant did not return the call, and no further communication was received from the Registrant.

Ms Owens invited the Committee to conclude that the Registrant's absence was a voluntary waiver of her right to attend. She further submitted that it was in the public interest for there to be an expeditious disposal of the hearing. She noted that the Registrant had not made a request for an adjournment, nor had she indicated that she had any representation. She submitted that any disadvantage to the Registrant would be outweighed by a fair and expedient 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 cases of R v Jones, Adeogba and Visvardis v GMC. 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.

The Committee reminded itself that fairness to the Registrant should be a prime consideration. The Committee concluded that the Registrant, with knowledge of the proceedings, had voluntarily absented herself from the hearing. There was no reason to suppose that an adjournment of the hearing would secure the Registrant's attendance at a later stage. The Committee also noted the serious nature of the allegations faced by the Registrant. It was also of the view that the public interest is strongly engaged. Accordingly, the Committee decided that it was fair and appropriate to proceed with the hearing in the Registrant's absence.

Application to Admit Hearing Bundle

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

Background

Ms Owens told the Committee that this matter first came to the Council's attention following an Employer Referral Form ('ERF') received from Ms Nicola Murray, Head of Recruitment at Rutledge Recruitment Ltd, on 04 January 2024. The ERF stated as follows:

'We received a visit from the PSNI seeking full details and home address of the registrant. The PSNI noted that it was in relation to a theft allegation. On speaking to the registrant today, 04/01 it is in relation to retaining £20 from a service user to purchase a lipstick. At this stage we have not received any further information from the PSNI. Update sought this morning.'

On 22 April 2024, the Common Law Police Disclosure ('CLPD') Unit confirmed that the Public Prosecution Service ('PPS') had directed prosecution for theft, and this was listed for hearing on 01 May 2024 at Craigavon Magistrates' Court. A further update was received, on 23 May 2024, to confirm that the Registrant's case had been listed for contest on 14 June 2024. The Council subsequently received confirmation that the Registrant had been convicted of three counts of theft, receiving a custodial sentence for a period of eight months, suspended for one year. The certificates of conviction were before the Committee within Exhibit 1.

Evidence

Ms Owens directed the Committee to the evidence contained within Exhibit 1 and, in particular, the certificates of conviction. She submitted that the Council sought to rely on the certificates as proof that the Registrant had been convicted of the offences that were set out in the Particulars of the Allegation. Ms Owens submitted that the certificates prove that, on dates between 27 December 2023 and 02 January 2024, the Registrant stole cash to the value of £20 or thereabouts on three occasions.

Ms Owens directed the Committee to the Case Summary and interview records disclosed by the PSNI. Ms Owens submitted that this evidence was important as it confirmed that this offence occurred in the course of the Registrant's employment as a social care practitioner. She told the Committee that the Registrant pleaded not

guilty at Court, but was subsequently convicted of the offences for which she had been prosecuted. The Committee heard that, when questioned by the Police, the Registrant failed to make any admissions to the theft of money, and continued to claim innocence even after being shown CCTV evidence of herself from inside the service user's home.

Ms Owens submitted that the certificates of conviction were conclusive proof of the facts, and that the Council had discharged the evidential burden of proof in establishing the facts in this case.

Findings of Fact

The Committee took into account the submissions made on behalf of the Council, and heard and accepted advice from the Legal Adviser. In accordance with Paragraph 13 of Schedule 2 of the Rules, the burden of proving the facts set out in the Allegation rests upon the Council. In addition, Paragraph 12 of Schedule 2 of the Rules specifies the approach which the Committee should take when considering the Allegation. The Committee was advised that the certificates of conviction should be treated as conclusive proof of the conviction and the facts underlying the conviction. The Registrant could rebut that presumption only where she could show that she was not the person named on the face of the certificates, or that she had successfully appealed her convictions to a Court of competent jurisdiction.

The Committee was satisfied that the certificates of conviction presented by the Council in respect of the Registrant were such as to prove conclusively that she had been convicted as set out. The Registrant did not present any evidence to rebut that conclusion.

Fitness to Practise

Ms Owens made a submission to the Committee on the question of the Registrant's current fitness to practise. Ms Owens submitted that the Registrant's actions, which led to her criminal convictions, 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.

Ms Owens submitted that the Registrant's actions constitute serious wrongdoing on her part. She referred the Committee to alleged breaches of the Standards of Conduct and Practice for Social Care Workers ('the Standards') by the Registrant as follows: 2, 2.1, 5, 5.1, 5.3 and 5.8.

The Committee heard and accepted the Legal Adviser's advice. The Committee was told that the question of whether the Registrant's actions, as evidenced by the certificates of conviction, were such as to entitle the Committee to find that the Registrant's fitness to practise is currently impaired, was a matter for the independent judgement of the Committee.

The Legal Adviser also referred the Committee to the case of Meadow v GMC. The Committee was reminded that its approach was set out at Paragraph 24 (3) of Schedule 2 of the Rules when deciding upon the issue of current impairment of fitness to practise:

- (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.

When considering the Registrant's actions, by reason of her convictions, the Committee was satisfied that she has breached the following Standards:

Standard 2: As a social care worker, you must strive to establish and maintain the trust and confidence of service users and carers. This includes:

2.1 Being honest and trustworthy.

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

5.1 Abuse, neglect or harm service users, carers or colleagues;

5.3 Abuse the trust of service users and carers or the access you have to personal information about them or to their property, home or workplace; or

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

The Committee first considered whether the Registrant's actions are capable of remedy. To the Committee's mind, as a matter of principle, such behaviour could be remedied but it would be a very difficult task. The Registrant stole money from a vulnerable service user while she cared for them in their own home on multiple occasions. In this instance, the Registrant has provided no evidence of insight, remorse or any steps taken by her in the intervening period to remedy her wrongdoing. As such, the Committee considered that there is a high likelihood that the Registrant would repeat the behaviour giving rise to the convictions. For these reasons, the Committee was satisfied that a finding of current impairment of the Registrant's fitness to practise was required for public protection reasons.

The Committee also considered the public interest, which includes the need to declare and uphold the proper standards of conduct and behaviour, and to maintain the reputation of the social care profession and the Council in its regulatory function. The Committee was satisfied that a failure to make a finding of current impairment of fitness to practise on public interest grounds would undermine the public's trust and confidence in the social care profession, and would fail to declare and uphold proper standards of conduct and behaviour. For these reasons, the Committee was satisfied that a finding of current impairment of the Registrant's fitness to practise was also required on public interest grounds.

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

Sanction

The Committee heard a submission from Ms Owens on the question of what, if any, sanction to impose. The Committee was informed that the Registrant has no previous regulatory findings against her. Ms Owens referred the Committee to various aggravating factors, and the NISCC Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'). She submitted that in the view of the Council, the Registrant's actions are fundamentally incompatible with continued registration as a social care practitioner, and invited the Committee to make a Removal Order.

The Committee heard and accepted the Legal Adviser's advice. He set out the range of available sanctions which are provided for by Paragraph 26 of Schedule 2 of the Rules. In summary, the Committee could impose no sanction, warn the Registrant for a period of up to five years, make a Conditions of Practice Order not to exceed three years, make a Suspension Order not to exceed two years or make a Removal Order.

The Committee was reminded that the purpose of a sanction is not to be punitive, although a sanction may have a punitive effect. Instead, in its consideration of a sanction, the Committee should have at the forefront of its mind the need to protect the public and the public interest. The Legal Adviser also reminded the Committee that it should act proportionately, and that any measure taken to limit the fundamental right of the Registrant to practise in the social care setting should be no more than what is necessary in the public interest.

The Committee carefully considered all of the available documentary material, together with Ms Owens' submissions. It also had careful regard to the Guidance.

The Committee considered the aggravating and mitigating factors in this case.

The Committee considered the mitigating factors to be as follows:

- No previous regulatory concerns / findings.

The Committee considered the aggravating factors to be as follows:

- Theft from a vulnerable service user in that service user's own home – abuse of trust;
- No evidence of insight;
- No evidence of remediation;
- Lack of engagement in the regulatory hearing;
- No expression of regret / remorse;
- Serious falling short of the standards to be expected of a registered social care practitioner; and
- A pattern of dishonest behaviour.

Having balanced the aggravating and mitigating factors, and taking into account the interests of public protection and the public interest, the Committee was satisfied that some form of sanction was necessary, and proceeded to consider which sanction to apply in this case.

No sanction – having regard to its findings, the Committee considered that to conclude this matter and to take no further action would be a wholly inadequate response, would permit the Registrant to practise unrestricted and would fail to protect the public and uphold the public interest.

Warning – for similar reasons as those advanced under ‘no sanction’, the Committee concluded that to issue the Registrant with a Warning would fail to protect the public and uphold the public interest.

Conditions of Practice Order – the Committee had no evidence as to the Registrant’s current employment, and was not aware as to whether an employer would co-operate with the imposition of conditions. In any event, the Committee concluded that it would be difficult, particularly in light of the Registrant’s non-engagement in these proceedings, to formulate conditions which would adequately protect the public and uphold the public interest. This was because the regulatory concerns which have resulted in the Registrant’s convictions raise an attitudinal issue in the Committee’s mind. In addition, in the Committee’s view, the wrongdoing is too serious for such a disposal.

Suspension Order – the Committee gave careful consideration to this sanction. However, the Committee noted that the Registrant has failed to engage with the regulatory proceedings against her, and has not shown evidence of insight or remediation, or expressed remorse for her actions. The Registrant has abused her privileged position as a social care practitioner for her financial gain. She failed to make admissions to Police and pleaded not guilty at Court. She was convicted by the Court of theft. There was also the Committee’s finding that there is a high risk that the Registrant would repeat the conduct which resulted in her convictions. As such, the Committee concluded that the Registrant’s behaviour, combined with her lack of insight, remediation or remorse, is fundamentally incompatible with her remaining on the Social Care Register.

Removal Order – the Registrant abused her position to obtain a financial gain for herself by stealing money from a person who was entrusted to her care. The Registrant’s actions took place on multiple occasions, which established a pattern of dishonest behaviour. There was evidence before the Committee of a persistent lack of insight on the Registrant’s part. Her actions are fundamentally incompatible with continued registration. As a result, the Committee decided that the only appropriate and proportionate sanction to impose, with immediate effect, was to make a Removal Order in respect of the Registrant’s registration. In addition, the Committee decided, with immediate effect, to revoke the Interim Suspension Order, to which the Registrant has been subject until this hearing.

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.

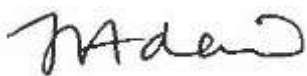
The effect of this decision is that your entry in the Register has been removed.

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.



20 February 2025

Hearings Officer
(Clerk to the Fitness to Practise Committee)

Date