

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

**REDACTED**

**Name:** Daniel McConville

**SCR No:** 1147754

**NOTICE IS HEREBY GIVEN THAT** the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **12 May 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 conviction;**

**The Committee decided to make an Order suspending your registration for a specified period of 18 months ('a Suspension Order').**

**Particulars of the Allegation:**

That, whilst being registered as a social care worker under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), you were convicted on 17 April 2024 of the following offence at the Magistrates' Court:

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| 1. | Charge 1: Defendant [You] on 31 <sup>st</sup> day of May 2023 unlawfully assaulted [Injured Party] contrary to section 42 of the Offences Against the Person Act 1861 |
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And your actions as set out above shows that your fitness to practise is impaired by reason of a conviction in the United Kingdom for a criminal offence as per Rule 4 (1) (d) of the Fitness to Practise (Amendment) Rules 2019.

**Preliminary Issues**

The fitness to practise hearing was held at the Northern Ireland Social Care Council's ('the Council') offices in James House, Belfast. The Registrant was in attendance and was not represented. The Council was represented by Ms Sinead Owens, Solicitor, Directorate of Legal Services.

**Procedure**

The hearing was held under the fitness to practise procedure.

## **Declarations of Conflict of Interest**

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

## **Application to Admit Evidence**

The Committee accepted the hearing bundle into evidence, and marked it as Exhibit 1. The Committee also received into evidence a Probation Board for Northern Ireland report dated 16 April 2024, submitted by the Registrant, marked as Exhibit 2. The Committee also received into evidence a document entitled Probation Board for Northern Ireland: Significant Risk of Serious Harm to Others Procedures, submitted by the Council, marked as Exhibit 3.

## **Background**

The Registrant is registered on Part 2 of the Register.

Ms Owens told the Committee that the matter first came to the Council's attention on 09 September 2024, following receipt of an Employer Referral Form ('ERF') from Mr Daniel Brooks, a registered manager with the Belfast Health and Social Care Trust ('the Trust'). The ERF advised that during a planned supervision session between the Registrant and Mr Brooks on 04 September 2024, the Registrant disclosed that he had received a suspended custodial prison sentence in respect of a criminal charge of assault. It also detailed that the Registrant was a senior care coordinator for dementia patients / older persons, and that he had been placed on precautionary suspension from his role in the Trust.

The ERF detailed the Registrant's account of the relevant incident, provided to his manager, in the following terms:

*'...in June 2023, when [REDACTED]'.*

During the meeting with his employer, the Registrant said that the matter had been reported to the PSNI, with [REDACTED].

On 12 September 2024, the Council received the PSNI case summary and interview notes, indicating that the Registrant was interviewed on 03 August 2023. Ms Owens said that the Council had received the relevant Certificate of Conviction confirming that, on 17 April 2024, the Registrant was convicted of unlawful assault and was issued with a three-month custodial sentence, suspended for one year. The Certificate of Conviction further indicated that the matter was listed for County Court Appeal on 28 June 2024. Ms Owens told the Committee that the Registrant withdrew his appeal, and that the reference to a 'dismissal' on the Certificate of Conviction did not reflect what had happened.

## **Evidence**

Ms Owens directed the Committee to the evidence contained within Exhibit 1 and, in particular, the Certificate of Conviction. She submitted that the Council sought to rely on the certificate as proof that the Registrant had been convicted of the offence as set out in the Particulars of the Allegation. Ms Owens submitted that the certificate

proves that, on 31 May 2023, the Registrant unlawfully assaulted [Injured Party] contrary to section 42 of the Offences Against the Person Act 1861.

### **Findings of Fact**

Ms Owens said that the Council was concerned by the apparent conscious decision by the Registrant to conceal and avoid notification of the conviction until he was no longer in a position to do so. She told the Committee that the issue only came to light during a meeting with the Registrant's manager, on 04 September 2024, when the Registrant finally declared the conviction. The Registrant said, in respect of his failure / delay in doing so, that he *'did not want to disclose the matter'*.

Ms Owens submitted that the Certificate of Conviction was conclusive proof of the facts, and that the Council had discharged the evidential burden of proof in establishing the facts in this case.

The Registrant admitted the facts relating to his conviction on 17 April 2024.

The Committee took into account the submissions made by Ms Owens on behalf of the Council, and by the Registrant, 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 and, specifically, certificates of conviction being conclusive proof. The Legal Adviser reminded the Committee that the Registrant had admitted the conviction. The Committee noted that there was no suggestion that the conviction related to another person and not the Registrant. The Committee further noted that it was agreed between the Council and the Registrant that he had withdrawn his appeal, and that the conviction of 17 April 2024 remains.

The Committee was satisfied that the Certificate of Conviction presented by the Council in respect of the Registrant was such as to prove conclusively that he had been convicted as set out. In any event, the Registrant himself admitted to the conviction. The Committee, therefore, found the facts proved.

### **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 his criminal conviction, call into question his 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 his 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: 5 and, specifically, 5.8 which relates to behaviour which calls into question suitability to work in social care services.

Ms Owens said that the Registrant has made some admissions, but that there is no further evidence of insight or remorse. She said that he has not fully accepted responsibility for his actions, and that he appears fixated on blaming others. Ms Owens highlighted that the offending behaviour had an impact on [REDACTED]. She also said that there was no evidence of reflection on why the Council would be concerned.

Ms Owens highlighted that the conviction related to a [REDACTED]. She said that the Registrant had described acting 'out of frustration'. She said that it was the Council's case that there was a transferable risk to vulnerable service users, that the Registrant could have another lapse and that there had been no effective, measurable steps taken to remediate. She also said that the Registrant had demonstrated a lack of candour about the conviction, and that this has an impact for his regulator and employer.

Ms Owens said that the public would find it unacceptable if the Registrant was deemed fit to practise unrestricted following his conviction. She said that a finding of impaired fitness to practise was necessary in order to both protect the public and uphold the public interest.

The Registrant submitted that he was fully aware of and had insight into what happened under what he deemed to be extreme circumstances. He said that he was afraid for [REDACTED]. He said that it was a one-off, single mistake for which he had suffered. He said that he had already been disciplined enough, and that now he could lose his house, home and job. The Registrant also commented on the negative impact on his reputation.

The Registrant said that the incident had '*absolutely no impact whatsoever*' on [REDACTED], and he further said that this was evidenced by [REDACTED] and talking to the Registrant the next day.

The Registrant said that he admitted that it was wrong. However, he said that '*if something like that did happen, I would probably act unreasonably again if I was so stressed again*'.

The Registrant told the Committee that he had completed a [REDACTED] course, which related to [REDACTED]. He further told the Committee that he has applied for a 'Keeping it Cool' course, which relates to anger management. In response to a question from the Committee, he confirmed that he has not yet completed the course and that it had been advised by a social worker. The Registrant said that he was not generally an angry person, and he referenced a social work report which showed remorse (no such report was before the Committee).

The Registrant said that he was stupid and stressed at the time of his Police interview. He said that he was determined to [REDACTED] and that this had led to him telling the Police that he had '*gone overboard*'. The Registrant said that '*I had convicted myself*'. When asked by the Committee about risk of repetition, the Registrant said that something like this, involving [REDACTED], was unlikely to happen again. He said that he had never reacted in work, and that a similar incident would not be repeated. He said that he was a caring person and generally not an angry person, '*only under those exceptional circumstances*'.

The Registrant told the Committee that it was not illegal to [REDACTED]. He told the Committee that when he had contacted his solicitor, another lady present laughed at him when she heard the circumstances. The Registrant said that he was not comfortable with his actions being described as assault.

Under cross-examination by Ms Owens, the Registrant confirmed that [REDACTED]. [REDACTED]. He said that he has not completed any other work to help himself and that, over the past two years, he has been stressed every day.

The Registrant told the Committee that he has worked in social care since 1991. He described the work environment as very challenging, and he confirmed that no complaints had been made against him. The Registrant said that he was finding it difficult to come to terms with his conviction. He said that he had wanted to appeal but that doing so could impact [REDACTED]. The Registrant said that he had attempted to get testimonials from colleagues at work but that two people whom he approached were both off on sick leave. He said that he had saved three tenants' lives, and gave an example of a time when he had offered reassurance to a confused service user who was reluctant to take her medication.

The Committee considered the submission from Ms Owens on behalf of the Council, the submission from the Registrant, and had regard to all of the evidence in the case. The Committee heard and accepted the advice of the Legal Adviser. The Committee was told that the question of whether the Registrant's actions, as evidenced by the Certificate 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. He referred the Committee to the Standards. In particular, he asked the Committee to take into account the nature and content of the criminal conviction against the Registrant, and reminded the Committee that it was being asked to determine whether the Registrant's fitness to practise is impaired by reason of that conviction. He referred the Committee to Paragraph 24 (3) of Schedule 2 of the Rules, and the guidance as set out in the case of GMC v Cohen. The Committee was charged with looking at the current competence and behaviour of the Registrant, along with the need to protect service users, members of the public, the upholding of proper standards of behaviour and maintaining of public confidence in the social care profession. He further referred the Committee to the formulation provided by Dame Janet Smith in her fifth Report to the Shipman Inquiry, which was cited with approval by Mrs Justice Cox in CHRE v NMC & Grant.

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 the Standards and the Council guidance entitled 'Making a Determination of Impaired Fitness to Practise: Guidance for Committees on Remediation'. The Committee was satisfied that the Registrant's actions, as evidenced by his conviction, are 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 considered that the Registrant's conviction was a serious matter. His assault of [REDACTED] fell well short of the standards to be expected of a social care worker. Notwithstanding this, the Committee considered that the Registrant's actions are capable of remediation. However, such remediation would require well-developed insight, regret and full acknowledgement of the potential impact caused to others.

The Committee was concerned by the Registrant's evidence with regard to insight. At times, he acknowledged that his actions would be deemed unacceptable by the public. However, the Registrant on multiple occasions sought to minimise his actions, their impact on others and the potential damage to the reputation of the profession. The Committee noted that the Registrant's reflections on the incident repeatedly returned to his own difficulties. At no time did the Registrant acknowledge the potential harm to [REDACTED]. On the contrary, he expressly stated that there had been no impact.

The Committee was further concerned by the Registrant's evidence that something like this could happen again if he was frustrated or encountered similar circumstances. The Committee took little reassurance from the Registrant's comment that similar circumstances were unlikely to arise in the future. The Committee accepted and agreed with the Council's assertion that there was a transferable risk to the social care workplace, where the Registrant would encounter vulnerable persons. The Committee noted the Registrant's evidence that he had worked for 35 years without complaint, although there was no independent corroboration by way of testimonial evidence.

Having regard to all available evidence relating to insight, remediation and risk of repetition, the Committee concluded that there is currently a risk to public protection.

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 his conviction.

## **Sanction**

The Committee heard a submission from Ms Owens on the question of what, if any, sanction to impose. She told the Committee that in terms of mitigating factors, the Registrant had had no previous referrals to the Council, that the Registrant's actions were committed outside of work and that no service users were harmed, and that he had made early admissions to the PSNI. Referring to aggravating factors, Ms Owens submitted that the conviction was serious and related to assault on a vulnerable minor; that the behaviour showed a disregard for the Standards of Conduct and Practice; that the Registrant had attempted to conceal his conviction from his employer; and that there was an absence of insight, remorse and remediation on the part of the Registrant.

Ms Owens referred the Committee to Paragraph 2.4 of the NISCC Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'). She submitted that the imposition of no sanction or a Warning would not provide public protection in the circumstances of this case. She said that a Conditions of Practice Order would be difficult to formulate and would not meet the concerns identified.

Ms Owens told the Committee that a Suspension Order may be an appropriate sanction where a registrant's actions are not so serious as to justify removal. She submitted that it was the Council's view that while it acknowledged that the Registrant had recognised his failings, it remained concerned about the level of insight which he has displayed, with an associated risk of repetition. Ms Owens submitted that the Registrant's remediation is in its infancy and that the Committee, if minded, may consider that with a significant shift in insight, a Suspension Order may be appropriate in the circumstances of this case.

The Committee also heard a submission from the Registrant in regards to mitigation and sanction. He told the Committee that he is no risk to the public and that there is no way that he would put himself in this position again. He said that he has complete insight into why members of the public would be concerned with his conviction. The Registrant told the Committee that there had been no previous incidents and that he had made a '*terrible mistake*'. He said that these have been the worst two years of his life, that he has suffered enough and that the conviction should not destroy his life completely. The Registrant submitted that he has always been good to service users, and he asked the Committee for a period of suspension.

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.

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. 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 to 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 carefully considered all of the available documentary material, together with Ms Owens' and the Registrant's submissions.

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

The Committee considered the mitigating factors to be as follows:

- no previous referrals to the Council;
- no service users were harmed; and
- the Registrant has had 35 years' work history without complaint.

The Committee considered the aggravating factors to be as follows:

- the conviction is serious;
- the conviction involved the assault of [REDACTED];
- the Registrant's behaviour showed a disregard for the Standards of Conduct and Practice;
- there was a delay in disclosure of the conviction to his employer and the Council; and
- limited evidence of insight, remediation and remorse.

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 next considered a Conditions of Practice Order. The Committee observed that such an Order would ordinarily be imposed in order to address failings in a registrant’s practice. There were no such concerns in this case as the Registrant’s behaviour took place outside of the workplace. The Committee could not formulate workable, enforceable or verifiable conditions which would address the Registrant’s criminal behaviour and adequately protect the public. Given the seriousness of the Registrant’s conviction, 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 a Suspension Order. The Committee noted that it had made findings at the facts and impairment stages of the proceedings which were of a very serious nature, and that the Registrant’s actions fell far below the standards to be expected of a registered social care 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 was particularly concerned by the limited evidence of remorse, insight and remediation. As detailed above, the Committee considers that there is a risk of repetition. The Registrant would be required to evidence significant development into his insight before he could return to unrestricted practice. It would be wholly inappropriate for the Registrant to practise unrestricted while a risk of repetition remains. It is, therefore, important that the Registrant takes remedial action. In the Committee’s view, a period of suspension would enable the Registrant to produce a detailed reflection on his behaviours relating to his conviction, and the potential impact which they had on others. In addition, the Registrant may wish to focus on the requirement to uphold Standards of Practice, and the need to maintain confidence in the social care workforce. To date, the Registrant’s reflections on the convicting behaviour have been limited to the impact which they have had on him. In addition, the Registrant may wish to make further attempts to obtain testimonials and references evidencing his past work history. It may also assist the Registrant if he attends courses relating to anger management, and provides evidence to the Council of completion of any such courses.

Whilst acknowledging that remediation would be difficult, the Committee considered that the Registrant's behaviour was not fundamentally incompatible with continued registration. In order to allow remedial work to be completed, a period of 18 months' suspension was deemed appropriate by the Committee. Accordingly, the Committee determined that a Suspension Order was the appropriate sanction.

**Removal Order** - In the current circumstances, the Committee concluded that a Removal Order would be disproportionate.

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**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 suspended for a specified period of 18 months and you may not practise as a social care worker during this time.**

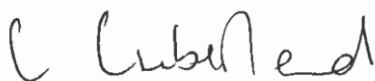
### **Early Review**

The Fitness to Practise Committee may, at your request, review the Order before the end of the period for which the suspension has been imposed if there has been a material change of circumstances since the Order was imposed. The Committee may, after reviewing a Suspension Order, revoke that Order or replace that Order with a Conditions of Practice Order.

### **Review at Conclusion of Sanction**

A review of your fitness to practise will be undertaken towards the end of the period for which the Suspension Order has been imposed. The Council will write to you no later than 12 weeks before the expiry of the Order to invite you to submit any information or documentation which you would like to have considered as part of the review process. The review will consider the particular concerns which have been outlined above by the Fitness to Practise Committee, and will seek to ascertain what remedial steps you have taken during the period of your suspension.

Following the Council's review, the matter may be referred for review by the Fitness to Practise Committee. If the Committee reviews the Order and it is satisfied that your fitness to practise remains impaired, it may impose a further Order to commence upon expiry of the existing Order, or it may impose a Conditions of Practice Order to commence upon expiry of the existing Order, or it may vary the terms of the existing Order, or it may revoke the existing Order and impose a Removal Order.



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Head of Adjudication and Compliance

19 May 2025

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Date