

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

REDACTED

Name: David Jonathan Lee

SCR No: 6040540

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **06 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 at the Magistrates' Court on 02 October 2024 of the following offence:

1. Charge 1: [You] on 28/02/24 intentionally applied pressure on or to the throat or neck amounting to battery of another namely [REDACTED] and that you intended to affect her ability to breathe or the flow of blood to her brain or that you were reckless as to whether this act would affect her ability to breathe or the flow of blood to her brain contrary to Section 28 of the Justice (Sexual Offences and Trafficking Victims) Act (NI) 2022 and the offence is aggravated by reason of involving [REDACTED], contrary to section 15 of the [REDACTED] .

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 Northern Ireland Social Care Council's ('the Council') offices in James House, Belfast. The Registrant was in attendance and represented himself. The Council was represented by Mr Anthony Gilmore, 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.

Application to Admit Hearing Bundle

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

Findings of Fact

The Registrant told the Committee that, on the basis of his conviction, he admitted the facts as set out in the Particulars of the Allegation, and confirmed that he was found guilty.

The Committee had careful regard to all of the documentary evidence contained in Exhibit 1. In particular, the Committee had regard to the Certificate of Conviction and the Registrant's submission. Accordingly, the Committee found the facts proved by way of admission.

The Committee was also satisfied that the Certificate of Conviction was conclusive proof of the conviction so found and the underlying facts.

Accordingly, the Committee found the facts proved, in accordance with Rule 4 (1) (d) of the Rules.

Fitness to Practise

The Committee proceeded to consider whether the Registrant's fitness to practise is currently impaired by reason of his conviction.

Mr Gilmore directed the Committee to the contents of Exhibit 1, and provided the Committee with the background to the case. He said that the Registrant is registered on Part 2 of the Register.

Mr Gilmore submitted that the matter first came to the Council's attention following an Employer Referral Form ('ERF') and suspension letter, received from [REDACTED], Home Manager of [REDACTED] Care Home, on 15 March 2024. The ERF stated that on 11 March 2024, the Registrant disclosed to his manager that he had been arrested, interviewed and charged in respect of an allegation of non-fatal strangulation, which was alleged to have occurred on 28 February 2024. The ERF also stated that the allegation related to [REDACTED] and was not related to the workplace.

Mr Gilmore said that on 20 March 2024, the Common Law Police Disclosure ('CLPD') Unit sent an early disclosure letter to the Council. The letter stated as follows:

‘The information we are providing is that on 10th March 2024 the subject was arrested, charged and interviewed in respect of an allegation [of] Non-fatal Strangulation or Asphyxiation which is alleged to have occurred on 28th February 2024.

The Alleged aggrieved party (AAP) has alleged that [REDACTED], the subject forcefully placed his hands around her neck and placed a pillow over her face. The AAP states this caused her to forcefully push him away.

The allegation relates to [REDACTED] and is unrelated to the workplace. The subject admitted to placing a pillow over her face but stated during interview that he was only ‘messaging around’ and had no intent to injure the AAP.”

On 13 August 2024, the CLPD Unit confirmed the following by way of email:

“Mr Lee is charged to court on 01/10/2024... Offence – Non-fatal Strangulation or Asphyxiation.”

Mr Gilmore referred the Committee to the Certificate of Conviction, the PSNI Case Summary and interview notes, and the witness statement contained in Exhibit 1. He advised the Committee that the Certificate of Conviction confirms that the Registrant was convicted on 02 October 2024 at the Magistrates’ Court, and that he received a Combination Order. He further noted that the Registrant’s charge and conviction included that the offence was aggravated by reason of involving [REDACTED]. He said that the Court imposed a Community Service Order for 240 hours and a Probation Order for one year and six months. Mr Gilmore further stated that the Certificate of Conviction discloses that the Registrant pleaded guilty to the offence at Court. Mr Gilmore confirmed that as a result of information provided by the Registrant, the Community Service Order, when dealt with by the Probation Service Northern Ireland (‘PBNI’), reduced the period of the Order to 100 hours. Mr Gilmore referred the Committee to the email from PBNI, dated 06 May 2025, which confirmed that the Registrant had completed all of his 100 hours of community service as of 25 February 2025. Mr Gilmore also noted that the Registrant was subject to a Restraining Order against the victim for one year, and that this expires on 01 October 2025.

Mr Gilmore noted the information provided by the PSNI in their case summary, which gave context to the circumstances of this incident. He noted that the Registrant co-operated with the Police investigation and that he told the Police that the incident took place as he was ‘messaging about’ and ‘joking’. He further noted that the Registrant apologised for what had happened and said that he was not a violent person.

Mr Gilmore referred the Committee to the statement of the victim. He drew the Committee’s attention to the description of what had happened on 28 February 2024 and how the Registrant had been trying to talk over her, placed his hands around her neck, and placed a pillow over her face. He noted her description of the Registrant as applying force, and her being afraid.

Mr Gilmore submitted that the Registrant’s conviction called into question his ability to work in social care services and to remain on the Register without restriction, or to be registered at all. He referred the Committee to the Standards of Conduct and Practice for Social Care Workers (‘the Standards’) which, in his submission, the Registrant had breached by reason of his conviction, namely Standards 5 and 5.8.

Mr Gilmore stated that the Registrant's actions fell far below the standards expected from a social care worker who is entrusted with providing care for the most vulnerable people in society. Mr Gilmore also submitted that the Registrant, by his conviction, had brought the social care workforce into disrepute.

Mr Gilmore submitted that the starting point when considering remediation is insight into behaviour, and acceptance of responsibility. He noted that the Registrant co-operated with the Police and pleaded guilty to the criminal charge. However, he submitted that the Council had an ongoing concern that the Registrant has failed to accept the consequences of his actions and that, although he apologised, he appeared to minimise what had happened.

As regards the risk of repetition, Mr Gilmore noted that this was a single incident and there was no evidence of anything prior or subsequent to his violent conduct. He noted that although the offence took place in [REDACTED], there remained a potential risk of the Registrant losing control or his temper snapping in a work environment. He noted that the Registrant's perception of what had happened differed from the victim's description, and that the Registrant's loss of control is of particular concern where he may be providing care for vulnerable service users and / or service users with challenging behaviours.

Mr Gilmore stated that a failure to make a finding of current impairment of the Registrant's fitness to practise would undermine public trust and confidence, and would fail to declare proper standards of conduct and behaviour. He submitted that violent actions outside the workplace bring the social care workforce into disrepute in general, particularly where there has been a serious breach of the Standards.

Mr Gilmore invited the Committee to make a finding of current impairment by reason of the Registrant's conviction.

The Registrant addressed the Committee and referred to the reference from his previous employer, [REDACTED], Home Manager at [REDACTED]. This stated as follows:

'To whom it may concern,

I am pleased to write this letter of recommendation for David Jonathan Lee.

David was employed as a care assistant on day duty in a full time basis in [REDACTED] from 21 September 2021 to 14 May 2024. David worked well on his own and as part of a team in the care home. He provided safe and compassionate care to our residents. David is a kind, caring and warm individual. He made a great connection with our residents and their families and they missed him when he left his role.

There were no issues of any kind raised during David's employment.

Yours faithfully,

[REDACTED]

Home Manager – [REDACTED]'

The Committee also noted the telephone conversation between the Council and [the Registrant's previous employer] on 29 April 2025, when [she] confirmed that she was happy to give the reference and that the Registrant would probably still have been working at the home if this had not happened.

The Registrant told the Committee that there were nine to ten days between the events of 28 February 2024 and the involvement of the Police. He submitted that the victim did not sustain any injury and that, after the incident, they [REDACTED] and worked together. He suggested that this indicated a friendly relationship. He told the Committee that he could not get his head around what had happened and that, even now, he receives messages from the victim. He said that he wished to continue working in social care in the future, and that he had experienced a hard year with [REDACTED]. He said he wished that he could go back, for this not to have happened, and that he regretted what had happened.

The Registrant confirmed that he completed his community service in a charity shop and at Kiltonga Christian Centre, as well as litter picking at Crawfordsburn Country Park.

The Registrant told the Committee that he had been involved in a road traffic accident in 2019 which had a serious impact on him, [REDACTED].

He told the Committee that he understood how what had happened had impacted the victim, and said that this may have left her nervous about going out and mixing with people, and that he regrets that. He told the Committee that he understood that he may have to accept some sort of restriction, but assured the Committee that he would not repeat what happened.

The Committee considered the submission from Mr Gilmore 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. She referred the Committee to the Standards, and advised it to adopt a sequential approach when considering the issue. In particular, she 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. She 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. She 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, 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.

By his actions, as evidenced by his conviction, the Committee was satisfied that the Registrant had breached a fundamental tenet of the social care workforce and had brought the social care workforce into disrepute. The Committee had regard as to whether the Registrant would act in a similar manner in the future. The Committee considered that the Registrant's criminal behaviour was remediable. The Committee addressed the question as to whether the Registrant had in fact remedied his criminal behaviour. The Committee considered that the Registrant's criminal behaviour was very serious, involving a non-fatal strangulation. In considering insight, the Committee considered that the Registrant had limited insight into the actual impact of his criminal behaviour on the victim, and the possible resulting risk of serious harm. The Committee noted that whilst the Registrant has completed his community service, he is still subject to a Probation Order and a Restraining Order. The Committee took into account the Registrant's engagement with the Council and that he pleaded guilty to the criminal offence. However, in light of the limited insight or appropriate remediation, the Committee could not exclude the potential for repetition in the future. Accordingly, the Committee decided that a finding of current impairment of the Registrant's fitness to practise, by reason of his conviction, was necessary to protect the public.

The Committee also concluded that a finding of current impairment of the Registrant's fitness to practise was also necessary to protect and uphold the public interest. The Committee was of the view that public confidence in the social care workforce, and the Council as its regulator, would be undermined if a finding of current impairment was not made. The criminal conviction against the Registrant related to very serious criminal behaviour outside of the workplace in [REDACTED]. The Committee considered that the public would be dismayed to learn of the circumstances in this case and that this behaviour directly affects the Registrant's fitness to practise. Further, the Committee decided that a failure to make a finding of current impairment would fail to declare and uphold proper standards in the social care workforce.

For these reasons, the Committee has determined that the Registrant's fitness to practise is currently impaired by reason of his conviction.

Sanction

The Committee carefully considered all of the available documentary material, together with Mr Gilmore's submissions, and the submissions from the Registrant. It also had careful regard to the Northern Ireland Social Care Council Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance').

Mr Gilmore submitted that the Registrant's criminal behaviour is incompatible with the standards to be expected of a registered social care worker. He submitted that, given the seriousness of the Registrant's conviction and the significant degree to which, as a result, the Registrant had fallen below the standards to be expected of a registered social care worker, only a Removal Order would protect and uphold the public interest.

Mr Gilmore addressed the Committee on the mitigating and aggravating factors. As regards mitigating factors, he noted that:

- The Registrant engaged with the Council investigation and has attended the hearing today;
- The Registrant had no previous disciplinary record with the Council;
- The Registrant was first registered in 2018, and worked for [REDACTED] for a period of two and a half years without incident;
- The Registrant's previous employer provided a positive reference, and confirmed that the Registrant would probably still be working there if this incident had not happened;
- The incident occurred outside of the workplace and did not involve service users;
- The Registrant notified his employer of the Police investigation; and
- The Registrant co-operated with the Police investigation and pleaded guilty at Court.

Mr Gilmore suggested the following aggravating factors:

- The Registrant's conviction involved a very serious incident of violent conduct, described as a non-fatal strangulation in [REDACTED];
- The incident occurred to a female victim in [REDACTED];
- The Registrant is a registered social care worker providing care for vulnerable service users;
- The victim was put in fear as a result of the incident;
- The Registrant has shown limited insight into the impact of his behaviour; and
- The Registrant's behaviour is described as a 'sudden snapping', which could re-occur if the Registrant was faced with challenging behaviour in the workplace.

Mr Gilmore submitted that there remains a lack of remediation by the Registrant, and that his behaviour fell short of what is expected of a registered social care worker. He said that there was a real concern of a risk of harm to service users, colleagues and the general public arising from the Registrant's inability to control his emotions.

Mr Gilmore submitted that the imposition of a firm sanction was necessary to maintain public confidence in the Council as a regulator of the social care workforce. He said that the public would be dismayed if an appropriate sanction was not put in place in circumstances such as this.

As regards a proportionate response in this matter, Mr Gilmore said that the reputation of the social care profession is more important than the fortunes of any individual member. In all of the circumstances, he submitted that the sanction of removal should be considered as the Registrant's criminal conviction means that he is fundamentally incompatible with being registered at all.

The Committee heard a submission from the Registrant in relation to mitigating factors. He asked the Committee to take into account the time elapsed since the incident, and that there have been many changes in his life. He said that he has received [REDACTED], and has had to deal with [REDACTED]. He said that he has received [REDACTED] in respect of the impact of his road traffic accident. He said that he has co-operated fully with the Council investigation and made an early admission of the facts. He said that this was an isolated incident and that it was not a true reflection of his behaviour. He told the Committee that he regrets what happened so much, and wishes that night had never happened. He said that he had a good history with staff and residents at the care home.

The Registrant told the Committee that although [REDACTED] has messaged him, he has not responded to any of these messages and has told his Probation Officer about them. He said that he loves his work, is a good care worker, and has learnt from what has happened.

The Committee heard and accepted the Legal Adviser's advice. She set out the range of available sanctions which were 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 was not to be punitive, although a sanction might 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 was necessary in the public interest.

She further reminded the Committee that in deciding which sanction to impose, the Committee should take into account:

- (a) the seriousness of the Particulars of the Allegation;
- (b) the degree to which the Registrant has fallen short of any expected standards;

- (c) the protection of the public;
- (d) the public interest in maintaining confidence in social care services; and
- (e) the issue of proportionality.

The Committee applied the principles of fairness, reasonableness and proportionality, weighing the public interest with the Registrant's interests. The public interest included 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 Council's Guidance, bearing in mind that the decision on sanction was one for its own independent judgement.

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

The Committee considered the mitigating factors to be:

- The Registrant has attended the hearing and co-operated fully with the Council investigation;
- The Registrant has no prior or subsequent regulatory concerns;
- The Registrant provided a positive reference for a care home where he worked for two and a half years;
- The Registrant immediately notified his employer of the Police investigation and co-operated with the Police;
- The Registrant pleaded guilty to the criminal charge; and
- The Registrant expressed remorse and regret for what had happened.

The Committee considered the aggravating factors to be:

- The Registrant's conviction for non-fatal strangulation, [REDACTED], is very serious and involves violent behaviour;
- The victim, a female, was assaulted in her own home;
- The victim was placed in fear as a result of the Registrant's behaviour; and
- The Registrant showed limited insight into the impact of his criminal behaviour on the victim, service users, colleagues and the general public.

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

Warning – the Committee considered whether to impose a Warning in this case. Having regard to its findings, and the serious nature of the Registrant's criminal conviction, the Committee considered that such a step would

be inadequate to protect the public, would fail to uphold the public interest, and would permit the Registrant to work unrestricted in a social care setting.

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 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.'

Although the Committee considered that the Registrant's criminal conviction was serious, it did not consider it so serious as to justify removal from the Register. In particular, the Committee noted that the Registrant's criminal behaviour took place outside the workplace, with no harm to service users. The Committee determined that the Registrant's behaviour is not fundamentally incompatible with continuing to be a registered social care worker in the long term. Suspension will give a clear message to the Registrant, the public and the profession that the Registrant's conduct was inappropriate for a social care worker. There were no other complaints raised with the Council in respect of the Registrant. The Committee noted that the Registrant is presently subject to a Probation Order, expiring on 01 April 2026, and a Restraining Order, expiring on 01 October 2025. He has successfully completed a Community Service Order. 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. In addition, the Committee considered that a reviewing Committee would be assisted by:

- A written reflection from the Registrant dealing with:
 - The Registrant's behaviour leading up to the incident on 28 February 2024, and how he now manages his emotional responses;

- The factors involved in his behaviour, looking at the specific impact on the victim, along with the risk of harm to her;
- The impact of the Registrant's criminal behaviour on the confidence in the social care workforce of service users, colleagues and the general public; and
- The Registrant's continued engagement with the Council.

The Committee considered that the public would be sufficiently protected by a period of suspension for 18 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 considered the public interest. The public must be able to have confidence in those who provide care to the most vulnerable. In all of the circumstances of the case, the Committee determined that the reputation of the profession and the role of the Council to uphold proper standards of behaviour will be met by a Suspension Order. The Committee was satisfied that a Suspension Order is appropriate, having weighed the public interest with the interests of the Registrant.

The Committee carefully considered the potential impact which a Suspension Order could have on the Registrant. However, it concluded that any consequences for the Registrant are outweighed by the need to protect the public and maintain public confidence in the social work profession.

Removal Order – the Committee did consider the sanction of removal. Whilst acknowledging that some of the factors listed in the Guidance were engaged, the Committee concluded that a Removal Order would be disproportionate, in particular as the Registrant has expressed remorse and regret and is complying with the Court Order. There were no previous referrals to the Council, with the Registrant engaging with the Committee at the hearing. On balance, the Committee was persuaded that a Removal Order at this stage would not be appropriate.

The Committee concluded that a Suspension Order for a period of 18 months was the most suitable, appropriate and proportionate sanction to 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 suspended for a specified period of 18 months and you may not practise as a social care worker during the period 06 May 2025 to 05 November 2026 inclusive.

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.



Hearings Officer
(Clerk to the Fitness to Practise Committee)

08 May 2025

Date