



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

Name: Mark Patrick O'Neill

SCR No: 6035394

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **05 June 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 for removal of your registration from the Register ('a Removal 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 09 October 2024 of the following offence. Upon hearing the appeal, the County Court ordered that the appeal be dismissed and that the conviction and sentence be affirmed on the 18 October 2024:

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| 1. | Defendant on the 18/11/2023 assaulted [REDACTED] thereby occasioning her actual bodily harm contrary to Section 47 of the Offences Against the Person Act 1861 and the offence is aggravated by reason of involving domestic abuse, contrary to section 15 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021. |
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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 a criminal offence.

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 at James House, Belfast. The Registrant was not in attendance. 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.

Service

Mr Gilmore told the Committee that the Notice of Hearing and hearing bundle were sent to the Registrant's registered email address on 17 April 2025, and that an electronic proof of delivery receipt was received on the same date. He said that an amended Notice of Hearing was served to the Registrant's registered email address on the same date, and that proof of delivery was again received.

The Committee received legal advice from the Legal Adviser. She 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, was satisfied that the Notice of Hearing had 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

Mr Gilmore made an application to proceed in the absence of the Registrant.

Mr Gilmore said that all reasonable steps had been taken to ensure that the Registrant was aware of proceedings. He referred the Committee to the Memorandum of Service, prepared by the Committee Clerk, which the Committee admitted into evidence as Exhibit 1. He said that the Registrant had confirmed by way of email to the Fitness to Practise Officer on 22 May 2025 that he would not be in attendance at the hearing. In response to his email, the Fitness to Practise Officer confirmed that the case had been listed for 05 June 2025, that his engagement was welcomed and that he was encouraged to participate in the proceedings. The Fitness to Practise Officer also reminded him of his option to provide written submissions for the Committee to consider if he chose not to attend.

Mr Gilmore told the Committee that, on 27 May 2025, the Registrant emailed the Council to confirm that he would be in attendance at the Fitness to Practise Committee. The Committee Clerk called the Registrant, on a mobile telephone number provided by him, to discuss the Registrant's options for engagement with the Committee, where the Registrant again confirmed that he would attend but that he was worried that he would not be allowed to return to work in social care due to the very serious nature of his conviction.

Mr Gilmore said that, on 05 June 2025, when the Registrant had not attended for the scheduled hearing, the Committee Clerk placed a further telephone call to him at 9:45 am to confirm if it was still his intention to attend the hearing. The Registrant said that he was very sorry but that he had forgotten about the hearing. The Registrant said that he would call the Clerk back shortly, and that he would try to organise himself in order to attend the hearing. Mr Gilmore said that the Clerk then received a text message from the Registrant at 10:01 am, stating, *'I'm sorry I can't attend I've no way to get down. Sorry for forgetting I really am'* [sic]. The Committee Clerk called the Registrant immediately after receiving the text message, and he confirmed that he was happy for the hearing to proceed in his absence. Mr Gilmore said that in a further telephone call to the Registrant, he was given the opportunity to attend the hearing by way of Zoom link but that he indicated that he did not want to avail of that option. The Registrant reiterated that he was happy for the matter to proceed in his absence.

Mr Gilmore invited the Committee to conclude that the Registrant's absence was a voluntary waiver of his right to attend. He further submitted that it was in the public interest for there to be an expeditious disposal of the hearing. He noted that the Registrant had not made a request for an adjournment, nor had he indicated that he wished to arrange representation or had any medical or health difficulty preventing his attendance. Mr Gilmore submitted that any disadvantage to the Registrant in the hearing proceeding would be outweighed by the public's interest in 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. She referred the Committee to the cases of R v Jones and Adeogba v GMC. She 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. She 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 himself from the hearing. The Committee noted that the Registrant was provided with every opportunity to attend the hearing, along with the possibility of joining by way of video-link. He further confirmed to the Committee Clerk, on more than one occasion, that he was happy for the matter to proceed in his absence. In the circumstances, the Committee considered that 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 was strongly engaged, and that this also included consideration of the expeditious disposal of the hearing. 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 2.

Background

The Registrant is registered on Part 2 of the Register.

Mr Gilmore told the Committee that this matter first came to the Council's attention on 10 May 2024. Mr Gilmore said that the Council contacted the Registrant to make him aware of the concern that had been raised against him with regards to an incident that had occurred on 18 November 2023.

Evidence and Submission on Facts

Mr Gilmore directed the Committee to the evidence contained within Exhibit 2. This included the Certificate of Conviction, the PSNI case summary and interview notes, and a witness statement provided by the victim. He submitted that the Council sought to rely on the certificate as conclusive proof that the Registrant had been convicted of the offence as set out in the Particulars of the Allegation. Mr Gilmore noted that the Registrant was convicted of Assault Occasioning Actual Bodily Harm ('AOABH') arising out of an incident on 18 November 2023. He said that the Registrant had pleaded not guilty to the charge and was subsequently convicted, on 09 November 2024, of AOABH, aggravated by reason of domestic abuse. He noted that the Registrant was sentenced to six months' imprisonment with no pre-sentence report requested by the Court. In addition, the Registrant was made subject to a Restraining Order for a period of two years, in force until 09 October 2026. He further noted that the Registrant unsuccessfully appealed his conviction, with the sentence and Restraining Order confirmed.

Mr Gilmore referred the Committee to the police case summary and the contents of the victim witness statement. He further submitted that the Court had rejected the Registrant's allegation that he acted in self-defence. He noted that the victim sustained a serious injury, with one tooth knocked out and bleeding and swelling to their lip and mouth, requiring sutures.

Mr Gilmore 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. He noted that the Certificate of Conviction was not contested by the Registrant, nor did he raise any issues with the additional bundle of documents.

Findings of Fact

The Committee took into account the submissions made by Mr Gilmore 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 and, specifically, a certificate of conviction being conclusive proof of same. The Committee noted that

there was no suggestion that the conviction related to another person, nor was the conviction successfully appealed.

The Committee was, therefore, 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. The Committee, therefore, found the facts proved.

Fitness to Practise

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

The Committee heard submissions from Mr Gilmore, who said 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: Standard of Conduct 5 - 5.8.

Mr Gilmore noted that the Registrant's conviction involved him head-butting his victim, causing significant injury. He submitted that the events were of a recent nature, and noted that the Registrant was released from prison on or about 10 January 2025. He asked the Committee to take into account that the Court considered the matter to be very serious, such that an immediate six-month prison sentence was imposed, along with a Restraining Order in place until October 2026.

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 Registrant had shown limited insight, and that there was a high risk of repetition. He submitted that, although there was some evidence to show that the Registrant accepted responsibility for his behaviour, he suggested that this was a partial admission and that it appeared that the Registrant was blaming the victim, suggesting that he had acted in self-defence.

Mr Gilmore also stated that a failure to make a finding of current impairment of the Registrant's fitness to practise would undermine public trust and confidence in the social care workforce, and would fail to uphold proper standards of conduct and behaviour. He referred the Committee to the reference submitted by the Registrant, received by the Council on 22 July 2024. He noted that this was received prior to the Registrant's conviction.

Mr Gilmore submitted that the Registrant's conviction showed a lack of self-control and that this could present a risk to service users, particularly in challenging situations.

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

The Committee considered the submission from Mr Gilmore 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 Cox J 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 breached a fundamental tenet of the social care workforce and 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 has displayed very limited insight into the serious nature of his conviction and, in particular, the impact of his assault on the victim.

Although the Registrant's assault appears to be a one-off event, the Committee considered the incident to be very serious as evidenced by the Court's immediate imposition of imprisonment without a pre-sentence report. The Committee was not confident as regards there being no repetition of the Registrant's criminal behaviour, and

noted that the Registrant's assault was preceded by escalating acts, culminating in a loss of control by the Registrant when he head-butted his victim, causing very serious and traumatic injuries. The Committee considered that the Registrant's criminal behaviour, involving a very serious and violent act, is not easily remediable. The Committee had no evidence from the Registrant of any remediation.

Accordingly, the Committee decided 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 necessary to protect the public and to 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, particularly where a registrant was found guilty of AOABH, aggravated by domestic abuse and resulting in an immediate six-month prison sentence with a Restraining Order. The Committee considered that the public would find it totally unacceptable that a registrant convicted in these circumstances remained on the Register without restriction. 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.

The Committee took into account the character reference provided by the Registrant, prepared by a team leader at Kilwee Care Home. Whilst the character reference was positive as regards the Registrant's work in social care, the reference was undated, pre-dates the criminal trial, and did not make any reference to the police or Council investigations.

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

Sanction

Mr Gilmore confirmed that the Registrant had no previous disciplinary record with the Council.

In mitigation, Mr Gilmore referred the Committee to the Registrant's employment character reference, received by the Council on 22 July 2024, which he noted as being a 'good reference'. He further noted that the Registrant's conviction related to an incident outside of work and did not involve a service user. The Registrant also made a partial admission to the police when interviewed, and had engaged and co-operated with the Council in a courteous manner.

As regards aggravating factors, Mr Gilmore noted that the Registrant's criminal conviction related to a violent offence, aggravated by domestic abuse, which caused severe physical injury and trauma to the victim. He noted that the Registrant was made the subject of an immediate sentence of imprisonment without a pre-sentence report, with domestic abuse being an aggravating factor.

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 a Suspension Order would not be an adequate response to

the impact of the Registrant's criminal behaviour on public confidence in the social care workforce. He submitted, 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, that only a Removal Order would protect and uphold the public interest.

The Committee carefully considered all of the available documentary material, together with the submission from Mr Gilmore. 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').

The Committee heard and accepted the Legal Adviser's advice. She 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 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 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 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:

- No previous regulatory disciplinary matters;

- The Registrant submitted a positive character reference from Kilwee Care Home on 22 July 2024, which pre-dated the criminal conviction;
- The Registrant engaged with the Council's investigation in a positive manner;
- The Registrant's criminal conviction relates to a matter which occurred outside work; and
- The Registrant made partial admissions during the police interview.

The Committee considered the aggravating factors to be:

- The Registrant's criminal conviction relates to a serious, violent event, causing trauma and physical harm to the victim;
- The Registrant's assault and subsequent conviction are fundamentally incompatible with his duties to protect the public;
- The Registrant's conviction was aggravated by domestic abuse; and
- The Registrant received an immediate custodial sentence, along with a Restraining Order which is still in place.

Having balanced the aggravating and mitigating factors, and having taken into account the interests of public protection and the public interest, the Committee was satisfied that a sanction is 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, the Committee considered that such a step would be wholly inadequate to protect the public and would also fail to 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 are no such concerns in this case. The Committee could not formulate workable, enforceable or verifiable conditions which would address the Registrant's criminal behaviour and adequately protect the public. The Registrant's conviction relates to serious criminal behaviour, which resulted in significant injuries to the victim. Given the seriousness of the Registrant's conviction, taken together with the fact that he was the subject of a prison sentence and a Restraining Order until 09 October 2026, the Committee concluded that a Conditions of Practice Order would be insufficient to address the risk of harm identified above and 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 Registrant's violent behaviour had a traumatic and serious impact on the victim, for which he showed no remorse. The Committee had no evidence before it of any remediation by the Registrant, nor any information to

indicate that he is unlikely to repeat his criminal behaviour in the future. In addition, the Committee heard no oral evidence from the Registrant, nor did he provide any written submission for consideration in his absence.

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.'

In all of the circumstances, the Committee concluded that a Suspension Order would not be sufficient to address the seriousness and unacceptability of the Registrant's criminal conviction.

Removal – the Committee, therefore, decided to impose a Removal Order. In so doing, the Committee took into account the Guidance at Paragraphs 4.26 – 4.28. It concluded that, given the seriousness of the Registrant's criminal conviction and his lack of insight and remediation, a Removal Order was the only appropriate and proportionate sanction which could be imposed that would protect the public and maintain public confidence in the social care workforce and the Council as its regulator. The Registrant's actions were deplorable, and constituted a very serious departure from the professional standards as set out in the Standards. As such, the Committee was satisfied that the Registrant's actions are fundamentally incompatible with continued registration. The Committee also considered that public confidence in the social care workforce, and the Council as its regulator, would be undermined if a social care worker who was criminally convicted of AOABH, aggravated by domestic abuse, and who failed to show appropriate insight, remorse, or remediation was allowed to remain on the Register. The Committee also considered that a sanction short of a Removal Order would fail to declare and uphold proper standards of conduct and behaviour.

The Committee decided, in order to protect the public and in the public interest, to make a Removal Order, with immediate effect, in respect of the Registrant's registration.

The Committee also directed that the Interim Suspension Order currently in place should be revoked 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.

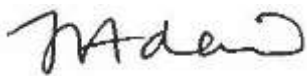
The effect of this decision is that your entry in the Register has been removed.

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.



11 June 2025

Hearings Officer
(Clerk to the Fitness to Practise Committee)

Date