

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

REDACTED

Name: Brian Robertson

SCR No: 7010292

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **24 September 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 two years ('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), and whilst employed as a support worker by Mencap, you were convicted at the Magistrates' Court on 23 January 2025 of the following offence:

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| 1. | Defendant [You] on 2 nd day of February 2022 intentionally touched (REDACTED) the circumstances being that the touch was sexual, that she did not consent to the touching and you did not reasonably believe that she so consented, contrary to Article 7(1) of the Sexual Offences (Northern Ireland) Order 2008. |
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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 as per Rule 4 (1) (d) of the Fitness to Practise (Amendment) Rules 2019.

Procedure

The hearing was held under the fitness to practise procedure.

Preliminary Issues

The hearing was held remotely by way of video-link. The Registrant was in attendance and was not represented. The Northern Ireland Social Care Council ('the Council') was represented by Ms Sinead Owens, Solicitor, Directorate of Legal Services.

Declarations of Conflict of Interest

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

Application to Amend the Particulars of the Allegation

Ms Owens made an application to amend the Particulars of the Allegation.

The Registrant confirmed that he had no objections to the Council's application.

The Committee received legal advice from the Legal Adviser, who referred the Committee to Paragraph 18 of Schedule 2 of the Northern Ireland Social Care Council's Fitness to Practise (Amendment) Rules 2019 ('the Rules').

The Committee was satisfied that the Allegation could be amended without causing prejudice to the Registrant and the application was therefore granted. The Committee was satisfied that the relevant Certificate of Conviction contained an error in respect of the date of the offence. Whereas the correct date was 02 February 2023, the Certificate of Conviction referred to 02 February 2022.

Application to Admit Hearing Bundle

The Committee accepted the hearing bundle of documents 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 he was found guilty of an offence under Article 7 (1) of the Sexual Offences (Northern Ireland) Order 2008.

Ms Owens provided the Committee with the background to the case. She said that the Registrant is registered on Part 2 of the Register.

Ms Owens told the Committee that this matter first came to the Council's attention on 10 February 2025 when a phone call was received from the Registrant to declare that he had received a conviction for a sexual offence. She said that an Employer Referral Form ('ERF') was subsequently received from Mr Declan Harley, Service Manager, Mencap on 24 February 2025 confirming same.

Ms Owens referred the Committee to the documents contained within Exhibit 1, which contained the ERF, the Certificate of Conviction and relevant witness statements. Ms Owens told the Committee that the Registrant pleaded guilty on 13 December 2024. He was subsequently convicted on 23 January 2025 and received a

Community Service Order for 12 months. The Court also required the Registrant's name to be added to the Sex Offenders Register for a period of five years.

Ms Owens also drew the Committee's attention to the witness statements from the victim, the PSNI and Harbour Police, which provided further details of the case.

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.

The Committee noted the background outlined by Ms Owens and found the facts proved as per the Registrant's admission.

Notwithstanding the erroneous date of offence, the Committee was also satisfied that the Certificate of Conviction was conclusive proof of the conviction and the underlying facts.

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

Submissions and Decision on 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 Ms Owens who 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. Ms Owens directed the Committee to the Standards of Conduct and Practice ('the Standards') and invited the Committee to determine that the Registrant's conviction was in breach of the following standards: 5 and 5.8.

Ms Owens submitted that the Registrant's conviction is a relatively recent event, as he was convicted in January 2025. Ms Owens told the Committee that the Registrant's conviction and conduct fell far below the minimum standard expected of a registered social care worker and called into question his fitness to practise.

Ms Owens referred to the Registrant's early admissions, his guilty plea, his engagement with the fitness to practise proceedings and his attendance at the hearing. However, she submitted that the public interest and confidence in the social care profession would be undermined if a finding of current impairment was not made in these particular circumstances.

The Registrant told the Committee that he took full responsibility for his actions. He referred to his regret and said that he understood the impact of his actions on his victim and that they gave rise to questions regarding his suitability to work in social care. He said that he loved his work with Mencap. He said that he had reflected a great deal on his actions. He further said that he knows that his actions were unacceptable, they served as a wake-up call to him, and he takes seriously the standards expected of social care workers.

The Registrant also told the Committee that he has completed his community service and received confirmation of same from the Probation Service. He also said that the Disclosure and Barring Service ('DBS') had considered his conviction and decided that he should not be barred and that no further action was required.

The Registrant told the Committee that he had been [REDACTED] which had helped him reflect on his actions. He also said that alcohol had played a part in the incident and that he has not had alcohol since the incident. The Registrant said that there had been no repetition, it was an isolated incident, and it will never happen again.

The Registrant said that he was fully committed to the values and standards put in place by the Council and that he would accept any conditions or restrictions. He also said that it was his dream to get back into social care but that he would accept any decision made by the Committee.

The Committee considered the submission from Ms Owens on behalf of the Council and the Registrant's own submission. The Committee had regard to all of the evidence in the case. The Committee accepted the advice of the Legal Adviser. He referred the Committee to the Standards. He reminded the Committee that it was being asked to determine whether the Registrant's fitness to practise was currently impaired because of this conviction. He referred the Committee to Paragraph 24 Schedule 2 of the Rules, and the requirements as set out in the case of the GMC v Cohen. He further referred the Committee to the questions posed by Dame Janet Smith in the fifth Shipman Report when considering impairment. He also referred the Committee to the cases of GMC v Meadow and CHRE v NMC & Grant.

The Committee considered whether the Registrant's fitness to practise was impaired by reason of his conviction as set out in the Particulars of the Allegation.

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 titled 'Making a Determination of Impaired Fitness to Practise: Guidance for Committees on Remediation'. The Committee was satisfied that the Registrant's actions were in breach of the following Standards of Conduct:

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

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

The Committee was satisfied that the Registrant's actions, whereby he had been convicted of a serious sexual offence, and required to comply with Sex Offenders Registration for five years, was a serious departure from the standards of behaviour and conduct of a registered social care worker.

The Committee determined that the Registrant's conduct was capable of remedy. The Committee had specifically noted that the Registrant had completed his community service. It further noted that he had attended [REDACTED]. The Committee considered that the Registrant's submission contained genuine reflection and remorse. It specifically noted that he acknowledged the impact of his actions on both his victim and public confidence in the social care profession. It was the Committee's view that the Registrant had partially remediated. However, having regard to the relatively recent nature of the offending, the Committee was not satisfied that remediation was complete and this was reflected by the five-year notification requirements. The Committee considered that the Registrant had provided evidence of insight into his serious wrongdoing. There was some evidence of insight in that the Registrant had pleaded guilty and had thus saved the complainant the ordeal of giving evidence in court against him. The Committee noted that the Registrant had self-referred to the Council within a number of weeks following his conviction. The Committee also had regard to the absence of any repetition, albeit as noted above the offending behaviour was relatively recent. Overall, the Committee determined that the risk of repetition was low.

The Committee was satisfied that the public interest was engaged and a registrant being convicted of a sexual offence is a serious matter. In the Committee's view, given the relatively recent offending, together with its seriousness, the public would expect a finding of impairment and this was necessary to uphold proper professional standards and public confidence in the profession.

Therefore, the Committee concluded that the Registrant's fitness to practise is currently impaired by reason of his criminal conviction.

Sanction

In reaching its decision on sanction, the Committee considered the submissions of Ms Owens and the Registrant. The Committee also had regard to all of the evidence in this case. Ms Owens referred the Committee to mitigating factors and advised that the Registrant had no previous referrals to the Council, he had made early admissions and pleaded guilty, and he had engaged fully with the Council. Ms Owens also said that the Registrant had produced a supportive reference from his former manager as well as confirmation of attendance [REDACTED].

As regards aggravating factors, Ms Owens submitted that the Registrant had been convicted of a serious offence. She submitted that his behaviour which led to his conviction showed a serious disregard for the standards and that the Registrant has been listed on the Sex Offenders Register for a period of five years.

Ms Owens referred to paragraphs 2.4 and 4.7 of the Northern Ireland Social Care Council Indicative Sanctions and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'). Ms Owens drew attention to paragraph 4.26 and the appropriateness of a Removal Order where there is no other way to protect the public or where confidence in the social care profession would be undermined by allowing the Registrant to remain on the Register. Ms Owens also drew attention to paragraph 5.1 of the Guidance, which details that sexual misconduct is a most serious area of concern, as well as paragraphs 5.4 and 5.6, which both reference the seriousness of sex offender notification requirements and the potential to seriously undermine public trust.

The Registrant told the Committee that the conviction has had a major impact on both [REDACTED].

The Committee accepted the advice of the Legal Adviser. He referred the Committee to the Guidance, and reminded the Committee to consider the question of sanction in ascending order of severity, paying particular attention to the issue of proportionality.

He referred the Committee to Paragraph 26 of Schedule 2 of the Rules which provides that, upon a finding of impairment of fitness to practise, the Committee may:

- (a) impose no sanction; or
- (b) warn the Registrant and direct that a record of the warning should be placed on the Registrant's entry in the Register for a specified period of up to 5 years; or
- (c) make a Conditions of Practice Order for a specified period not exceeding 3 years; or
- (d) make an Order suspending the Registrant's registration for a specified period not exceeding 2 years (a 'Suspension Order'); or
- (e) make an Order for removal of the Registrant's registration from the Register ('a Removal Order').

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

- (a) the seriousness of the Particulars of the Allegation;
- (b) the degree to which the Registrant has fallen short of any expected standards;
- (c) the protection of the public;
- (d) the public interest in maintaining confidence in social care services; and
- (e) the issue of proportionality.

The Committee applied the principles of fairness and proportionality, weighing the public interest with the Registrant's interests, and taking into account any aggravating and mitigating factors in the case. The public interest 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 Guidance, bearing in mind that the decision on sanction is one for its own independent judgement.

The Committee recognised that the purpose of sanction was not to be punitive, although a sanction may have a punitive effect. The Committee considered the aggravating and mitigating factors in this case.

The Committee considered the mitigating factors to be:

- The Registrant's early admissions;
- The Registrant's guilty plea;
- The Registrant's engagement with the Council;
- The offence was an isolated incident;
- The Registrant's development of insight;
- The Registrant's remorse;
- The Registrant's remediation to date;
- His previous good regulatory history;
- The positive work reference; and
- The [REDACTED] the Registrant has completed.

The Committee considered the aggravating factors to be:

- This was a sexual offence, giving rise to notification requirements for five years.

The Committee was mindful that whilst there was only one aggravating factor identified, it carried significant weight consistent with the seriousness of sexual offence cases, together with notification requirements as referred to in the Guidance.

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

No sanction - the Committee had no doubt that it would be entirely inappropriate to impose no sanction in this case. To impose no sanction would be inappropriate in view of the seriousness of the case and would not protect the public or address the public interest.

Warning – the Committee considered whether to impose a Warning. Having regard to its previous findings, the Committee considered that such a step would be inadequate to protect the public and would fail to uphold the public interest. The Committee considered that the Registrant's conviction was not at the lower end of the spectrum.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Registrant's conviction for a sexual offence was not something that could be addressed through retraining or conditions. The Committee concluded that a Conditions of Practice Order would be insufficient to protect the public and uphold the public interest, given the seriousness of the Registrant's departure from the standards expected of a registered social care worker. As a result, the Committee could not formulate workable,

enforceable or verifiable conditions which would address the Registrant's behaviour, adequately protect the public and address the wider public interest.

Suspension Order – the Committee next considered a Suspension Order. The Committee noted that it had made findings that the Registrant's conduct was a serious departure from the standards expected of a registered social care worker.

The Committee carefully considered the issue of proportionality and whether suspension would address the concerns 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 mindful that the Registrant had acknowledged his failings, taken responsibility for his actions and indicated genuine remorse. It was also mindful of the low risk of repetition. However, the key question for the Committee was whether the seriousness of the sexual offending, together with the five-year notification requirement, meant that the public interest could only be upheld by making a Removal Order. The Committee was mindful of the need to be proportionate, together with the wording in paragraph 5.2 of the Guidance, which highlights the fact dependent nature of every case, including those involving serious concerns.

The Committee gave careful consideration to whether the Registrant's actions were fundamentally incompatible with registration. The Committee determined that it was only because of the isolated nature of the offending, together with the genuine remorse and regret, the development of insight and the remediation to date, that a Removal Order was not appropriate in this case.

The Committee had regard to the matters set out at paragraph 4.20. There was no evidence of harmful, deep-seeded personality or attitudinal problems, nor was there evidence of a repetition of the behaviour since the incident. In the Committee's view, the finely balanced decision is reflected by the maximum duration of a Suspension Order being imposed as any lesser sanction would not uphold the public interest. Whilst not determinative, having regard to the reference from the Registrant's former manager, the Committee considered that the Registrant could practice as a social care worker in the future and, by so doing, he could help repair the damage caused to public confidence in the social care profession.

Removal Order – the Committee, therefore, decided not to impose a Removal Order. As detailed above, the Committee was mindful that sexual offences such as that, which the Registrant was found guilty of, could result in removal from the Register. However, for the reasons detailed above, a Suspension Order, for the maximum available period of two years, is appropriate and proportionate.

The Interim Suspension Order currently on the Registrant's registration is revoked and replaced with this Order.

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 two years and you may not practise as a social care worker during the period 24 September 2025 to 23 September 2027 inclusive.

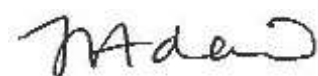
Early Review

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)

29 September 2025

Date