

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

REDACTED

Name: Che John George Hanvey

SCR No: 6015859

NOTICE IS HEREBY GIVEN THAT the Fitness to Practise Committee of the Northern Ireland Social Care Council, at its meeting on **19 and 20 March 2019** 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 misconduct

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

Particulars of the Allegation:

That, being registered under the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended), and whilst working as a Low Threshold Drug and Alcohol Worker for Extern:

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| 1. | On or about 19 August 2017, you engaged in an inappropriate personal relationship with Service User A in that you arranged to go to the cinema together, picked up a takeaway and returned to your home to eat it, and allowed Service User A to spend the night in your home; |
| 2. | On or about 03 September 2017, you deliberately altered the short contact records for Service User A. |

And that by reason of the matters set out above, your fitness to practise is impaired by reason of your misconduct.

Procedure:

The hearing was held under the fitness to practise procedure.

Preliminary Matters

In a Notice of Hearing dated 11 February 2019, sent by Special Delivery post and addressed to the Registrant at his address as it appears on the Register, the Council notified him of the date, time and venue for this hearing.

There was an attempted delivery of the package on 12 February 2019 and a 'something for you card' was left. The package was not collected and was returned to the Northern Ireland Social Care Council ('Council') on 12 March 2019. The package was then sent via first class post to the Registrant's registered address on 12 March 2019. The Notice of Hearing was also emailed to a known email address for the Registrant on 12 March 2019.

The Committee heard and accepted the advice from the Legal Adviser. She referred the Committee to Rule 3 of Part 1 of the Rules and Paragraph 5 (2) of Schedule 2 of the Rules.

The Committee, in all of the circumstances of the case, is satisfied that the Notice of Hearing has been served in accordance with Rule 3 of the NISCC Fitness to Practise Rules 2019 ('the Rules'), and the requirements of Paragraph 5 of Schedule 2 of the Rules.

Service

Ms Kelso made an application to proceed in the absence of the Registrant under Para 15 of Schedule 2 of the Rules, and that the Committee should hear and determine the case in his absence. She advised that there was no evidence to suggest that the Registrant was seeking a postponement of this matter nor did he supply any excuse for his non-attendance at today's hearing.

The Committee heard and accepted the advice from the Legal Adviser who referred them to the need to exercise their discretion with the utmost care and caution. She referred the Committee to the cases of R v Jones and Adeogba v GMC. She reminded the Committee that the Registrant is entitled to a fair hearing, to attend, be represented, test the Council's case and present evidence on his own behalf.

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. The Committee reminded itself that fairness to the Registrant should be a prime consideration.

The Committee bore in mind the public interest in the expeditious disposal of the hearing and that there was no evidence to indicate that the Registrant would be more likely to attend a future hearing if the matter was adjourned. After careful consideration of all of the issues, the Committee decided to exercise its discretion to proceed in the absence of the Registrant, taking into account the nature of the Allegation and striking a careful balance between fairness to the Registrant and the wider public interest. The Committee, in all of the circumstances, considers that the Registrant has voluntarily absented himself from today's hearing. However, the Committee reminded itself that it must avoid reaching any improper conclusion about the Registrant's absence, nor treat the absence as an admission of guilt.

Hearing Bundle

Ms Kelso confirmed to the Committee that the hearing bundle provided to it complied with the requirements of relevance and fairness and that the Registrant had made no objections to its contents. The Committee accepted the bundle into evidence and marked it as Exhibit 1.

Background

The Registrant is registered at Part 2 of the Social Care Register, being first registered on 23 August 2015. He was employed with Extern as a low threshold drug and alcohol worker, commencing on 07 September 2015. Extern operates a drug and alcohol harm reduction service in the Northern and Southern Health and Social Care Trust areas. The Registrant was based at Extern's Lurgan office, where support workers would have on average between 25 – 30 case files, ranging from needle exchange services through to high intensity support services. On the 01 September 2017, the Registrant was suspended as a result of an alleged inappropriate relationship with Service User A. An Employer Referral form was sent to the Council on 15 November 2017. This confirmed that as a result of a complaint from a family of a service user, investigations were commenced into an alleged inappropriate relationship between the Registrant and Service User A. During the investigation of this allegation, Extern examined the short contact records for Service User A and noted that alterations had been made which it alleged reduced the description of the impact of alcohol misuse on Service User A.

Evidence

The Committee carefully considered the documentary evidence within Exhibit 1 and heard sworn evidence from 3 witnesses on behalf of the Council:

Witness 1, is a programme manager for drug, alcohol and mental health services with Extern. He has line managerial responsibility for Witness 2 and was the Registrant's initial line manager. He carried out an investigation into the complaint raised against the Registrant.

Witness 2, is a manager for low threshold services at Extern and had line managerial responsibility for the Registrant in August 2017.

Witness 3, at the time of the Allegation was employed by Extern as a programme manager for Homelessness and Refugee Services. She chaired the disciplinary hearing relating to the Registrant on 02 November 2017 and 23 November 2017.

The Committee found the evidence of the 3 witnesses to be credible and clear. As regards Witness 1, the Committee notes his clear evidence as regards the Registrant's role within Extern and his investigation of the Allegation. Witness 2 provided the Committee with specific evidence as regards to the Registrant's caseload at Extern and his day to day work commitments. He also gave informative evidence as regards to the level of service provided by Extern. Witness 3 had no direct knowledge of the Service User and provided evidence of the Registrant's responses to the Allegation during the disciplinary hearing.

In addition to the sworn oral evidence the Committee had particular regard to the submissions made by the Registrant contained within Exhibit 1.

Finding of Facts

The Committee heard and accepted the advice of the Legal Adviser. She reminded the Committee that it must apply the standard of proof as applicable in civil proceedings, which is the balance of probabilities. She further referred the Committee to Schedule 2, Paragraph 12 (5) of the 2019 Rules as detailed by Ms Kelso. In addition, she reminded the Committee not to draw any adverse inference in the Registrant not attending or giving evidence.

The Committee reminded itself that the burden is on the Council to prove the facts as set out in the Particulars of the Allegation, and that to find the facts proved the Committee must be satisfied on the balance of probabilities. This means that for any fact to be found proved, the Committee must be satisfied that it is more likely than not to have occurred.

Particular 1 On or about 19 August 2017, you engaged in an inappropriate personal relationship with Service User A in that you arranged to go to the cinema together, picked up a takeaway and returned to your home to eat it, and allowed Service User A to spend the night in your home.

In considering this Particular the Committee took into account the evidence from Witness 1, that on 01 September 2017, a complaint was received from the family of Service User A, that the relationship between the Registrant and Service User A was inappropriate. As a result he placed the Registrant on immediate precautionary suspension.

During a subsequent investigation meeting on 11 September 2017, the Registrant admitted to having met with Service User A on Saturday 19 August 2017. The Registrant further stated that he had closed her file and then agreed to travel from Newry to Lisburn to watch a film that was being shown in a cinema. He stated that when they arrived the film was not showing and they picked up a take away and returned to the Registrant's home. Service User A subsequently spent the night at the Registrant's home. He told Witness 1 that he had signed off Service User A's file during their meeting in a coffee shop and that it was not unusual for him to work Saturdays.

He described this as a "one off engagement. Reflecting, I would not have went to the Cinema with Service User A" and he said that there were no policies to provide guidance in relation to relationships with ex-service users.

Witness 1 gave evidence to the Committee that the Registrant's relationship with Service User A on this date was unacceptable at any level. He said that although there was no specific policy on this, Service User A was vulnerable and that the Registrant would have been aware from the Code of Conduct that any social relationship with a service user was inappropriate. He told the Committee that something like this has never happened before and that he has never experienced any difficulties previous to this with the Registrant's work.

The Committee heard evidence from Witness 2 as regards his responsibility for the Registrant, as his line manager, from August 2017. He gave evidence that in and around August 2017 the team in the Lurgan office was very busy as one support worker had left the organisation and another was on sick leave. He said that he assisted by taking carriage of a caseload and that there would have been a slight increase in the Registrant's caseload at this time. He gave evidence that he was on holiday in late August / early September 2017 and was not involved in the investigation of the Allegation.

As regards the provision of supervision meetings with the Registrant, he told the Committee that these would have taken place every 2 to 3 months and, in addition, weekly team meetings took place. Concerning the closure of case files he gave evidence that the support worker would complete a proforma closure document, which was then discussed and signed off at the weekly meeting. He gave evidence that the case closure document completed by the Registrant for Service User A was not the proforma document used by Extern. He referred the Committee to examples of the Extern proforma closure document and said that he had carried out an audit of the Registrant's closed case files, which confirmed that he had consistently used the Extern proforma documentation. He described the Registrant as a very competent worker who had received external and internal specific training for his role. He gave evidence that it was not normal for support workers to work at weekends and that it is very clear to all support workers that there should be no social contact with service users.

The Committee heard evidence from Witness 3 who chaired the disciplinary hearing relating to the Registrant on 23 November 2017. During this hearing the Registrant confirmed his meeting with Service User A on 19 August 2017, when he alleged that he had closed her file. The Registrant further confirmed during the disciplinary hearing, that his actions constituted a poor decision and that he had been doing this job for a long time and realised that "I shouldn't have done that with ex-service users". Witness 3 gave evidence that she was concerned with the accumulation of poor decisions made by the Registrant on this date and that he did not appear to have appropriate insight into this. She said she had no confidence that the Registrant would not repeat his actions.

In considering this Particular the Committee also took into account the responses made by the Registrant during both the investigation meeting and the disciplinary hearing. The Registrant did not deny that he had arranged to go to the cinema with Service User A, purchased a take away and returned to his home and then allowed Service User A to spend the night in a separate room in his house. He denied there to be an inappropriate personal relationship with Service User A because "there was no relationship". He stated that from the time that the case was opened until it was closed, boundaries were in place. He did admit that he had made a poor decision.

In considering the facts alleged in this Particular, the Committee notes the Registrant's acceptance as regards his dealings with Service User A, on 19 August 2017, and as detailed in the Particulars of the Allegation. The Committee accepts the evidence from Witness 1 and Witness 3, concerning the investigation of the Allegation and that the Registrant describes what he did as a poor decision. In directing itself to the issue of the Registrant's alleged inappropriate personal relationship with Service User A, the Committee accepts the clear and consistent evidence from the 3 witnesses in this regard. All 3 witnesses gave evidence that social interactions with service users outside work are not appropriate. In particular, the Committee accept the evidence from Witness 3 that this is particularly important due to the vulnerable nature of Extern service users. The Committee also accept her evidence that the requirement as regards to no social interaction with service users applies equally to ex-service users.

Taking all the above into account, the Committee find on the balance of probabilities that this Particular is proved.

Particular 2 - On or about 03 September 2017, you deliberately altered the short contact records for Service User A.

In considering this Particular the Committee took into account the evidence from all 3 witnesses. Witness 1 gave evidence that during his investigation of the Allegation he checked Service User A's file. In addition to noticing the closure sheet was different from that is normally used, he found that the contact sheets had been altered. He referred the Committee to the 2 short contact records within the bundle of papers. He said that from his investigation the records had been modified on 03 September 2017. He referred the Committee to the differences between the original information on the short contact record and the amended information. He gave evidence that the effect of these alterations minimised Service User A's alcohol use, which supported the case being closed prematurely. Further investigation revealed that the Registrant had carried out these amendments. He gave evidence that the Registrant had changed the quantity and frequency of alcohol consumed by Service User A and deleted references to her families concerns about the extent of alcohol misuse. During the investigation meeting the Registrant admitted to Witness 1 that he had changed the records but only to ensure their accuracy and to update the file.

The Committee heard evidence from Witness 2 that he had been on holiday when the Allegation was investigated. He told the Committee that he had never encountered any amended contacts such as referred to and that if amendments were needed, they should be new additions added to the end of the contact notes.

The Committee heard evidence from Witness 3 that the Registrant admitted to changing Service User A's short contact records in so far as he had amended and updated them. She said the Registrant had disclosed that he had visited the Extern offices on Sunday 03 September 2017 to amend the records. He further stated that although he had been told to cease work he did not know that he had been suspended and had been trying to ensure that the records were accurate. Witness 3 gave evidence that the amendments made were substantive and could not be considered to constitute an 'update'. She gave evidence that the Registrant should have been aware that any change to the short contact record should have been made by adding another contact note.

In considering this Particular, the Committee also took into account the responses made by the Registrant during both the investigation meeting and the disciplinary hearing, along with the contents of his written submissions. The Committee notes that the Registrant stated that he amended the short contact records for the purpose of accuracy and updating. However, the Committee accept the evidence from the witnesses that this was not normal practice and that the amendments and deletions downgraded the level of Service User A's alcohol misuse and subsequent support. The Committee further note that the Registrant's actions took place at the weekend when he had been advised that he had been suspended and that his attending the office was a deliberate act. The Committee paid particular attention to the differences between the original short contact record and the modified short contact record. These differences were clearly substantial and changed the description of Service User A's alcohol consumption and in particular the assessment of the amount of sessions required.

Taking all the above into account, the Committee find on the balance of probabilities that the Registrant deliberately altered the short contact record for Service User A and that this Particular is proved.

Fitness to Practise

The Committee proceeded to consider whether the Registrant's fitness to practise is impaired. The Committee heard submissions from Ms Kelso who advised that there were no formal admissions from the Registrant in relation to the Particulars of the Allegation. She referred the Committee to the evidence that they had heard and the facts found proved, and suggested that each Particular fell short of the standard of practice expected of a social care worker. She said both Service User A and her family were dependent on the Registrant and trusted him. She said that his closing of Service User A's case file was inappropriate and not in accordance with Extern's policies. She reminded the Committee that the Registrant had an extensive employment history and would be familiar with the NISCC Standards of Conduct and Practice for social care workers. She suggested that the Registrant, in relation to Particular 1, had a number of occasions when he could have ceased his social interaction with Service User A. As regards Particular 2, she submitted that his actions in altering the short contact records were deliberate and intentional and an abuse of his position as a social care worker. She referred the Committee to the NISCC Standards of Conduct and Practice for social care workers and suggested that the following codes had been breached: 2 – 2.1 and 2.5; 5 – 5.4 and 5.8; 6 – 6.3 and 6.4.

In considering remediation she said that the Committee have no evidence of insight by the Registrant, into understanding the impact of his behaviour on Service User A and her family. She suggested that the Registrant, in his responses during the Extern investigation, referred to this being a poor decision and sought to blame management. She further submitted that there remains a risk of repetition and that there is no evidence from the Registrant that he has remediated his behaviour, especially in light of his non-attendance at today's hearing. She said that 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 Committee considered the submissions from Ms Kelso on behalf of the Council, and had regard to all of the evidence in the case. The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Standards of Conduct and Practice for Social Care Workers, and advised it to adopt a sequential approach when considering the application. She 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, 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 the maintaining of public confidence in the social care profession. She further referred the Committee to the findings of Dame Janet Smith in the 5th Shipman Report as regards the potential causes of impairment and also the contents of the Registrant's submissions and his responses during the Extern investigation.

The Committee considered whether the Registrant's fitness to practise is impaired by reason of his misconduct as set out in the Particulars of the Allegation. The Committee consider that the Registrant's actions as set out in the Allegation amounted to serious misconduct. The series of events on the 19 August 2017 evidenced increasing risk to Service User A. The altering of the short contact records by the Registrant on 03 September 2017 was a deliberate act by the Registrant, which had the effect of downgrading the Registrant's alcohol misuse difficulties and thereby placing her at serious risk of harm. The Registrant displayed no acceptance of responsibility for his actions and has sought to blame management and lack of supervision.

The Committee, in considering the issue of impairment of fitness to practise, took into account Paragraph 24 (3) of Schedule 2 of the Rules which states 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 of Conduct and Practice for Social Care Workers and the Council's guidance entitled 'Making a Determination of Impaired Fitness to Practise: Guidance for Committees on Remediation'. The Committee is satisfied that the Registrant's actions were in breach of the following Standards of Conduct:

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

- 2.1 Being honest and trustworthy;
- 2.5 Holding, using and storing records in line with organisational procedures and data protection requirements;
- 2.6 Being reliable and dependable;
- 2.8 Declaring issues that might create conflicts of interest and making sure that they do not influence your judgement or practice;

Standard 3 - As a social care worker, you must promote the autonomy of service users while safeguarding them as far as possible from danger or harm. This includes:

- 3.7 Recognising and using responsibly with service users and carers, the power that comes from your work role.

Standard 4 - As a social care worker, you must respect the rights of service users while seeking to ensure that their behaviour does not harm themselves or other people. This includes:

- 4.2 Following risk assessment policies and procedures to assess whether the behaviour of service users or others presents a risk of harm to themselves or other people;

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

- 5.4 Form inappropriate personal relationships with service users;
- 5.8 Behave in a way, in work or outside work, which would call into question your suitability to work in social care services;

Standard 6 - As a social care worker, you must be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills. This includes:

- 6.3 Being personally accountable for your actions and able to explain and account for your actions and decisions;
- 6.4 Maintaining clear and accurate records as required by procedures established for your work;

The Committee has no information or evidence from the Registrant as regards any action he has taken to remediate his behaviour. As regards the series of events as set out in Particular 1, the Committee consider these would be difficult to directly remediate. This is particularly relevant as the Registrant has displayed superficial insight into the risks generated by his actions both in his inappropriate personal relationship with Service User A and the altering of the short contact records. This is compounded by the Registrant being an experienced social care worker. The Committee notes with concern the Registrant's position that his social interaction with the Service User A did not breach any code of conduct as he had closed her case file. In addition, the Committee took into account that the Registrant in closing the case file did not act in accordance with Extern procedure or his own normal practice. In altering the short contact records for Service User A the Registrant again acted against Extern procedure and his falsifying of these records brought into question his professional judgement and integrity.

When considering risk of repetition, the Committee considers the Registrant's actions presented a potential for harm for Service User A. He entered into an inappropriate personal relationship with her and then altered and amended her short contact records. All of this behaviour placed Service User A at harm. Taking into account the Registrant's lack of insight and accountability for his actions the Committee consider there to be a continued risk of repetition by the Registrant.

The Committee concluded that the Registrant's behaviour brought the social care profession into disrepute and that the public would find it totally unacceptable that a Registrant, who had acted in this manner, remained on the Register without restriction.

In all of the circumstances, the Committee concluded that a finding of impaired fitness to practise is, therefore, necessary for the maintenance of public confidence in the social care profession, the Council as its regulator and public confidence in the social care profession would be undermined if a finding of impaired fitness to practise was not made.

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

Sanction

In reaching its decision on sanction, the Committee considered the submissions of Ms Kelso, on behalf of the Council, and had regard to all of the evidence in this case.

The Committee accepted the advice of the Legal Adviser. She 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');
- (f) ...

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 has applied the principles of fairness, reasonableness 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 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 Indicative Sanctions

and Use of Interim Orders: Guidance for Fitness to Practise Committees ('the Guidance'), bearing in mind that the decision on sanction is one for its own independent judgment.

The Committee recognises that the purpose of sanction is 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 considers the mitigating factors to be:

- There were no previous concerns, as regards to the Registrant, raised with Council
- The Registrant has worked as a social care worker without issue up to the time of the Allegation
- The Registrant partially cooperated with the Council's investigation of the Allegation and provided written submissions.
- The Registrant expressed minimal insight into the impact of these events
- [REDACTED]
- [REDACTED]

The Committee considered the aggravating factors to be:

- The Registrant's behaviour in his inappropriate relationship with Service User A constituted a catalogue of serious misconduct.
- The Registrant's behaviour in altering Service User A's short contact records was intended to minimise her alcohol consumption and downgrade her need for support. These actions took place outside work hours and in contravention of Extern policy and procedures with the intention to mislead.
- The Registrant's behaviour was an abuse of the trust placed in him by the Service User, her family and his employer, Extern.
- The Registrant's actions were pre-meditated in that he failed to use the appropriate file closure form for Service User A, and when suspended, attended the office out of hours with the purpose of altering records.
- The Registrant displayed superficial insight into the impact of his behaviour and failed to take personal responsibility.
- The Registrant made no admissions to the Allegation and sought to blame management and lack of supervision for his behaviour.

The Committee had no references or testimonials from the Registrant.

Having balanced the aggravating and mitigating factors the Committee considered that some sanction was appropriate and proceeded to consider which to apply in this case:

Warning – the Committee considered the issue of a Warning in this case. It bore in mind that the imposition of a Warning for a period of time would not protect the public from the risk of repetition. The Registrant's impairment of fitness to practise is not at the lower end of the spectrum, nor are the circumstances such that the Committee would be confident that this sanction would provide adequate public protection as far as the Registrant's suitability is concerned, bearing in mind that a Warning would entitle the Registrant to work unrestricted as a social care worker. The Committee has no evidence of corrective steps being taken by the Registrant, nor does it have any references or testimonials as to his character and current circumstances. The Committee notes that there is limited evidence before it as regards the Registrant's insight into his behaviour. Therefore, a Warning would not be appropriate or proportionate in these circumstances.

Conditions of Practice Order – the Committee next considered a Conditions of Practice Order. The Committee noted the NISCC Indicative Sanctions Guidance at Paragraph 4.13, which states that conditions may be appropriate in cases involving particular areas of a Registrant's performance and where a Committee is satisfied that it is appropriate for an individual to remain on the Register. The Registrant has demonstrated limited insight into his actions, and there is no evidence of any remediation nor has he engaged with this hearing or provided information as regards his current employment circumstances. The Committee, therefore, concludes that a Conditions of Practice Order would not be sufficient to meet the public interest in this matter, given the seriousness of the Registrant's departure from the standards expected of a registered social care worker. In these circumstances, the Committee could not formulate workable, enforceable or verifiable conditions which would address the Registrant's misconduct and adequately protect the public.

Suspension – the Committee did not consider that a Suspension Order would be an appropriate or proportionate sanction in this case. The Committee determined that the Registrant's misconduct constituted a serious catalogue of events and took into account the NISCC Indicative Sanctions Guidance at Paragraph 4.19, which states:

'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 determined that a Suspension Order would not address the risk of repetition. The Committee noted its findings at the fact and impairment stage of the proceedings and the serious breach of the Standards of Conduct and Practice for social care workers. As referred to above, the Committee has no evidence before it of remediation by the Registrant, nor has it any information to indicate that the Registrant is unlikely to repeat his misconduct in the future. The Committee considers the Registrant's remorse and insight to be limited, particularly in relation to the impact of his behaviour on Service User A. The Registrant's behaviour evidenced continued inappropriate professional judgment and in altering the Service User's short contact records, his actions amounted to deliberate falsification. The Committee considers that the public would perceive the Registrant's misconduct as falling short of what is expected of a registered social care worker. In all of the circumstances, the Committee concludes that a Suspension Order would not be sufficient to mark the seriousness and unacceptability of the Registrant's serious misconduct

Removal Order - the Committee then considered a Removal Order. In considering this, the Committee took into account the Guidance at 4.26 – 4.28. It concludes that, given the seriousness of the Registrant's misconduct and his lack of sufficient insight into and remediation of his failings, a Removal Order is the only sanction appropriate to protect the public and maintain public confidence in the social care profession and the Council as its regulator. The Committee considers the Registrant's behaviour to constitute a serious departure from the professional standards as set out in the Standards of Conduct and Practice for Social Care Workers. The Registrant's inappropriate relationship with Service User A and his deliberate alteration of her short contact records constituted an abuse of his position as a social care worker, and brought the social care profession into disrepute. The Registrant's social interactions with Service User A and the falsifying of her case records had the potential to place her at serious harm and directly impacted on the level of support given to her by Extern. The Registrant has shown limited insight and remorse, has taken no remedial action and has failed to engage with the Committee in relation to today's hearing. The Committee took into account the Registrant's written submissions and also his [REDACTED] in and around these events. However, the Committee concluded that the safety of services users was more important than the impact of any Order made on the Registrant. In all of the circumstances, the Committee concludes that a Removal Order is the only sanction available to it that would protect the public and meet the public interest in upholding confidence in the social care profession and its regulator, by marking the seriousness and unacceptability of the Registrant's actions. The Committee considers that public confidence in the social care profession, and the Council as its regulator would be undermined if a social care worker who engaged in an inappropriate relationship with a service user, altered service user case notes and failed to show sufficient insight or appropriate remediation, was allowed to remain on the Register. The Committee considered a Removal Order to be a suitable, appropriate and proportionate sanction which will 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 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.

C. Kennedy
Committee Manager

25.03.19.
Date