

NOTICE OF DECISION OF THE CONDUCT COMMITTEE

To:

Name: Ms Rachel Mainsah Kiven

Address:

Registration No: 1109701

(1) The Registrant

Copied to:

(2) The General Social Care Council

(3) The Complainant

(4) The Employer (if any)

The meeting was held at:

Regus Brindley Place, 3 Brindley Place, Birmingham, B1 2JB.

NOTICE IS HEREBY GIVEN THAT the Conduct Committee of the General Social Care Council met on 16 July 2010 to consider the following Allegation against you "the Registrant" as follows:

It is alleged that:

1. On 22 December 2009 at Birmingham Magistrates Court you pleaded guilty to and were convicted of the following offences:
 - a) Obtaining a money transfer by deception, contrary to Section 15 (A) (1) and (5) of the Theft Act 1968; and

- b) Making a false statement/representation to obtain benefit – Social Security, Contrary to Section 111A (1) (a) and (3) of the Social Security Administration Act 1992.
2. On 19 January 2010 at Birmingham Magistrates Court you were sentenced to a Community Order and ordered to pay costs of £100.00 in relation to the offences referred to at 1 above.

And in relation to the above facts, you are guilty of Misconduct.

STAGE 1: FINDINGS OF FACT – 16 July 2010

Advice from the Legal Adviser:

In accordance with Paragraph 12(1) & (2) of Schedule 2 of the General Social Care Council Conduct Rules 2008 ("The Rules"), the burden of proof to prove the facts alleged in the Formal Allegation rests on the Council and the standard of proof is on the balance of probabilities.

The allegations were admitted by the Registrant following her pleas of guilty before the Magistrates court. In the circumstances the committee would be entitled to take these matters into account in forming their view of the evidence.

The Committee's decision is as follows:

The Committee has found both allegations proved.

The reasons for the Committee's decision are as follows: This is a clear case of dishonesty involving claiming of Housing Benefit and Council Tax Benefit. The allegations were admitted by the Registrant and are of a substantial nature. The Committee took into account the conviction before the Magistrates Court.

STAGE 2: MISCONDUCT – 16 July 2010

Advice from the Legal Adviser:

Misconduct is defined in Rule 2(1) of Part 1 of the Rules as conduct which calls into question the suitability of a Registrant to remain on the Register.

The issue of misconduct is an exercise of judgement or assessment of the Committee on the basis of the facts found proven.

In accordance with Paragraph 23(2) of the Rules, in deciding upon the issue of Misconduct the Committee shall have regard to the Code of Practice issued by the Council.

The Committee has found Misconduct proved.

The case that was presented to the Committee by the GSCC is that the admitted facts constitute breaches of code 2, in particular 2.1 and code 5, in particular 5.8 of the Codes of Practice for Social Care Workers.

The Registrant admitted Misconduct.

The Committee found that Misconduct was proved.

STAGE 3: MITIGATION AND SANCTION – 16 July 2010

Advice from the Legal Adviser:

In accordance with Paragraph 25(2) of Schedule 2 of the Rules, the Committee in deciding what sanction is to be imposed upon the Registrant must take into account the following:

1. the seriousness of the proven misconduct;
2. the protection of the public;
3. the public interest in maintaining confidence in social care services;
and
4. the issue of proportionality.

Committee members should refer to the Indicative Sanctions Guidance in every case after having found misconduct, at the stage when they are considering what sanction to impose on the registrant.

It is a central function of the Conduct Committee to promote the interests of people who use services and to protect them by ensuring the suitability of registrants.

Members should consider each sanction from the least serious before deciding the appropriate sanction in any given case.

The Committee has decided to admonish the Registrant and directs that a record of the admonishment be placed on the Registrant's entry on the Register for the maximum period of 5 years.

The reasons for the Committee's decision are as follows:

The Committee considered the range of sanctions, dealing first with the least severe options. This is a case involving dishonesty in the claiming of benefits which is a matter of serious concern to the Committee and therefore requires a sanction.

The Registrant came to live in the UK in 2001 with her husband and child as political refugees from Cameroon. The marriage ended in 2003. When in the UK, the Registrant had two further children, learned to speak English and qualified as a social worker, receiving a 2.1 degree from Birmingham University in 2009.

The offences were committed by the Registrant over a period of more than two years. The Committee was satisfied that the offences were not pre meditated but committed when the Registrant formed a casual relationship. Although substantial benefit was obtained by the Registrant, the Committee found that there were a number of mitigating factors which allowed it to draw back from imposing a more substantial sanction, which is a matter that is to be generally expected in cases involving dishonesty.

In particular the Committee considered that there were the following substantial mitigating factors which should be borne in mind in imposing sanction in this case which were:

- a) The Registrant admitted the behaviour as soon as it was drawn to her attention.**
- b) This was not a case of dishonesty involving a service user, abusing a position of trust or theft from an employer. It was not targeted or committed to feed a drug habit.**
- c) The amounts involved were towards the middle of the range of amounts for this type of offence. The Registrant has made arrangements to repay the monies obtained.**
- d) The Registrant brought this matter to the attention of the GSCC herself.**

The Committee decided that this was not a case for removal from the Register but considered whether or not it was so serious that a suspension was required in the public interest.

The Registrant gave evidence before the Committee who found that there were a number of exceptional features of the case which persuaded them to impose an admonishment rather than a suspension in this case. The Registrant had shown determination in learning fluent English and training as a social worker. She had demonstrated great consideration for her young family and had obtained relevant testimonials from people who spoke of her caring and considerate personality and actions.

The Committee also accepted that the Registrant had already received a substantial penalty through the courts for her actions. The Registrant had shown insight into her situation and has clearly learned her lesson. She has sincerely apologised and shown regret. The Registrant has been offered a job as a social worker by Birmingham City Council subject to further checks and references and is keen to accept the offer and be able to support her young family. She has the potential to become a good social worker and

the Committee therefore felt that this was a case where an admonishment for the maximum period of 5 years was proportionate and appropriate in all the circumstances.

You should note that the Conduct Committee's decision took effect from the date upon which it was made.

Independent Safeguarding Authority (ISA)

The ISA has been created to help prevent unsuitable people from working with children and vulnerable adults.

In accordance with the Safeguarding Vulnerable Groups Act 2006 it is the GSCC's duty to refer information to the ISA in relation to certain conduct cases. The GSCC will notify you following the outcome of your hearing if we have referred you to the ISA.

Right of Appeal

The Registrant has a right to appeal to the Health, Education and Social Care Chamber of the First-tier Tribunal against this Decision no later than 28 days of service of Notice of it.

(Service is treated as having taken place on the day after this Notice was posted by registered post or recorded delivery)

Signed.....

Chair to the Conduct Committee

Dated.....

Signed.....

Clerk to the Conduct Committee

Dated.....