



**NOTICE OF DECISION OF THE CONDUCT COMMITTEE**

**To:**

Name: Mr Herbert Yaweh

Address:

Registration No: 1096180

**To:**

- (1) The Registrant**
- (2) The General Social Care Council**
- (3) The Complainant**
- (4) The Employer (if any)**

**NOTICE IS HEREBY GIVEN THAT** the Conduct Committee of the General Social Care Council at its meeting on 20 January 2010 made the following decision about the Registrant's Registration with the General Social Care Council:

**Formal Allegation**

It is alleged that:

**Whilst applying for employment and once employed as a social worker by London Borough of Ealing (LBE):**

**Part 1**

- 1. Between 2 April 2006 and 19 May 2007, you supplied false information to LBE in relation to your employment history, in that:**

**a) in your application for appointment form dated 3 April 2006,**

**i) you stated that you were employed at the North Surrey Community Services Team, between September 2005 to date; and**

**b) in your employment history document and curriculum vitae document provided to LBE on 13 October 2006**

**i) you stated that you were employed at North Surrey Community Services Team from June 2005 to January 2006 when in fact your employment at North Surrey County Council began on 5 September 2005 and terminated on 31 December 2005.**

**2. Your actions as set out in paragraphs 1(a)(i) and (b)(i) were:**

**misleading**

**dishonest.**

## **Part 2**

**3. In support of your application to Birkbeck University to enrol on a Masters degree course in Public Policy & Management,**

**a) you did supply to Birkbeck University**

**i) A false reference for yourself on LBE headed paper purporting to be written by Robert Odulinski dated 10 April 2007**

**ii) A false reference for yourself on LBE headed paper purporting to be written by Rachel Lumu dated 20 May 2007**

**4. Your actions as set out in paragraphs 3(a)(i) and (ii) were:**

**misleading**

**dishonest.**

## **Part 3**

**5. On 12 June 2009 at Guildford Crown Court, you pleaded guilty to and were convicted of criminal offences of:-**

**i) Having a false instrument with intent in October 2004**

**ii) Being knowingly in possession of a false/improperly obtained/another's identity document with intent in December 2006**

**iii) Being knowingly in possession of a false/improperly obtained/another's identity document with intent in November 2008**

**6. On 10 July 2009 you were sentenced by Guildford Crown and received a term of imprisonment of 26 weeks, suspended for 24 months, a 12 month supervision order and 120 hour Community Service Order.**

**7. Your actions as set out in paragraphs 5(i)(ii) and (iii) were:**

**misleading**

**dishonest.**

**and in relation to the above facts, you have committed misconduct.**

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## **STAGE 1: PRELIMINARIES**

### **Attendance at Hearing**

### **Advice from the Legal Adviser:**

### **ABSENCE OF THE REGISTRANT**

Rule 14. (1) Where the Registrant fails to attend and is not represented at the hearing, the Chair of the Committee shall:

(a) require evidence that the Registrant has been served with the Notice of Hearing in accordance with these Rules, and that reasonable efforts have been made to inform the Registrant of the hearing; and

(b) inquire whether any reasons for the Registrant's non-attendance have been communicated to the Clerk to the Committee or the Council.

(2) Where the Committee is satisfied that the Notice has been duly served on the Registrant, and that reasonable efforts have been made to inform the Registrant of the hearing it may:

- (a) hear and determine the case in the absence of the Registrant; or
- (b) adjourn the hearing and give directions.

The Committee have received an email dated 3 December 2009 from the Registrant indicating that he is aware of the hearing and voluntarily absents himself due to ill health and being HIV positive. He does not ask for the committee to adjourn the hearing. He has submitted written representations dated 28 November 2009 regarding this hearing and I would advise the Committee to take those representations into account when considering matters.

## **DECISION**

The Committee decided to proceed in the absence of the Registrant. The Registrant indicated that he did not intend to attend any conduct hearing in both a letter dated 28/11/09 and an email dated 3/12/09. He stated that his reason was due to his ill-health because he was HIV positive. He did not ask for an adjournment and he submitted his defence in writing to the allegations. He invited the Committee to decide matters in his absence.

There was a public interest in matters proceeding within a reasonable time period, particularly so given that the Registrant invited the Committee to decide matters and let him know of the decision. The Committee paid regard to the written submissions sent by the Registrant and decided to proceed in his absence.

## **FINDINGS OF FACT – 20 January 2010**

### **Advice from the Legal Adviser:**

Rule 11(5) states the findings of fact and certification of conviction of any UK Criminal Court or the findings of a Judge in any UK Civil Court shall be conclusive proof of the facts or conviction so found.

The Committee was reminded of the following provisions:

1. The burden of proof to prove the facts alleged in the Formal Allegations rests on the Council. The standard of proof is on the balance of probabilities: Paragraph 12(1) and (2) of Schedule 2 of the Rules.
2. The Committee can attach such weight as it believes appropriate to the evidence it has heard.
3. The Committee should take particular care when considering the position of the Registrant who has not attended at this hearing and who is not represented. In that regard the Committee should carefully consider any documentary evidence ( in this case the e mail) within the bundle that deals with the Registrant's case.

## DECISION

### PART 1

**The Committee found allegations 1a(i),1(b)(i) and 2 proved.** The Committee found that the Registrant was misleading and dishonest when he stated on an application form dated 3/4/06, applying for work at London Borough of Ealing, that he was working "now" for North Surrey Community Services Team. The Committee therefore found that when the Registrant stated that he was working for North Surrey in April 2006 he was not because the evidence from North Surrey Community Services Team stated he worked there until 31 December 2005 only.

In the employment history document and CV provided by the Registrant to the London Borough of Ealing, after the discrepancy in his application form had come to light; the Committee found the Registrant had been misleading and dishonest in relation to these two further documents because he said his employment began in June 2005 when in fact it began in September 2005.

The Registrant had previously stated in a disciplinary hearing with London Borough of Ealing that he had difficulty with forms. However the Committee noted that he was academically educated and that his knowledge of the English Language was such that he would have known that the word "now" would have implied to those reading the form that he was working at North Surrey in April 06. This was patently untrue.

The Committee noted the Registrant's representations in his letter to the Committee that he thought those receiving his form would have checked that the dates that he had worked for North Surrey Community Services Team and that he had no intention to be dishonest. The Committee noted the application form stated "Employed from .... to....." This was a clear question and the written answer by the Registrant was misleading because it was so obviously wrong. It therefore found the Registrant was dishonest. It did not accept that the Registrant did not intend to be dishonest because he had written the word "now" on the form at least three months after he had stopped working for North Surrey Community Service Team.

### PART 2

**The Committee found allegations 3a(i), 3a(ii) and 4 proved.** The Registrant admitted writing false references in his letter to the GSCC. The authors of both references denied writing the references supplied to Birkbeck University. The Registrant was misleading and dishonest in doing so because he had tried to deceive others by falsifying those two references. This behaviour was found by the Committee to be particularly dishonest because the Registrant stated in his letter that he had written one reference after one of the referees had refused to give him a reference.

### **PART 3**

**The Committee found allegations 5(i)(ii)(iii), 6 and 7 proved.** The Committee accepted the certificate of conviction from Guildford Crown Court relating to the Registrant's attempted use of a false passport on three occasions to open a bank account. The Committee noted the Registrant admitted this conviction in his letter to the Committee. Accordingly the Committee found that the Registrant had been misleading and dishonest in utilising a false passport despite the fact it was unclear as to why he had chosen to do so.

### **STAGE 2: MISCONDUCT - 20 January 2010**

#### **Advice from the Legal Adviser:**

1. 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.
2. The burden of proof in relation to misconduct rests upon the Council, in accordance with Paragraph 12(1) of Schedule 2 of the Rules, but the issues of misconduct is an exercise of judgement or assessment of the Committee on the basis of the facts found proven.
3. In accordance with Paragraph 23(2) of the Rules, in deciding upon misconduct the Committee shall have regard to the Code of Practice issued by the Council.

#### **The Committee finds Misconduct proved.**

The Committee decided that all the allegations displayed a degree of dishonesty and attempts to mislead other persons that were fundamentally unacceptable within social work. Trust and honesty are essential when working with vulnerable people. The public have a right to be able to rely upon the honesty and integrity of social workers.

The Committee found the Registrant's actions breached the following provisions of the Code of Practice for Social Care Workers;

- Part 1
- 2.1, 2.2,
- Part 2
- 2.1, 2.2, 5.2 and 5.8
- Part 3
- 2.1, 2.2, 5.8.

By failing to disclose an accurate employment history the Registrant purported to suggest that he had more experience in social care work. By falsifying references the Registrant sought to influence others regarding his suitability for a masters degree course. In addition the Registrant's decision to falsify a reference when the referee had already declined to

provide because the Registrant was under investigation was wholly dishonest and lacking in integrity. The conviction in 2009 displayed a pattern of dishonest behaviour which had begun in 2004. All these actions constitute a flagrant breach of trust placed in him as a social worker and a disregard for the codes of practice for social care workers. The behaviour calls into question his suitability to remain on the social care register

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### **STAGE 3: MITIGATION AND SANCTION – 20 January 2010**

#### **Advice from the Legal Adviser:**

1. 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:
  - a) the seriousness of the proven misconduct;
  - b) the protection of the public;
  - c) the public interest in maintaining confidence in social care services; and
  - d) the issue of proportionality
2. The Committee should refer to the Indicative Sanctions Guidance in every case after having found misconduct, at the stage when they are considering what sanction, if any, to impose on the Registrant.
3. 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.
4. The Committee should consider each sanction from the least serious before deciding the appropriate sanction in any given case.

#### **SANCTION**

##### **The Committee decided to remove the Registrant from the register.**

The falsification of documents is particularly serious because it undermines trust in social care services. Such conduct could undermine the confidence of the public in being able to place complete reliance on the integrity of Registrants. Such dishonesty would undermine the standards and reputation of social care services as a whole.

The Committee found little mitigation in this case save for the Registrant's ill-health which was a matter of concern due to his recent diagnosis as HIV positive. It noted that the Registrant had been unable to work and support his family since these matters came to light. The Committee noted that the Registrant admitted Part 2 and 3 of the allegations.

The Registrant appeared to lack insight into the impact of his dishonesty on social care users, colleagues and the reputation of the profession as a whole. The committee did not accept that any stress or difficulties the Registrant encountered in his work could excuse this type of dishonesty.

The misconduct found proved was committed both inside and outside work. There was an abuse of trust by the Registrant with his employer the London Borough of Ealing, North Surrey Community Services Team, Birkbeck University and it appeared with three banks.

The Committee noted that there were three instances of dishonesty in relation to part 1 of the allegations; the application form, the employment history document and CV. In relation to part 2 of the allegations there were two instances of dishonesty in relation to two references. In relation to part 3 of the allegations there were three criminal offences. This amounted to eight instances of dishonesty over a four year period. Part 2 of the misconduct took place after the Registrant had been confronted with the misconduct in Part 1. One of the instances of Part 3 of the misconduct took place whilst the Registrant was employed by the London Borough of Ealing and whilst he was under investigation by them for accusations of dishonesty.

The Committee found that no sanction was wholly inappropriate for a pattern of serious dishonesty.

The Committee found that admonishment would not address the seriousness of the misconduct and the protection of the public. This was repeated dishonesty which was deliberate and planned over a long period of time.

The Committee considered suspension. This was not appropriate in the light of the lack of insight by the Registrant because the Committee was not persuaded that the Registrant would act honestly in the future. This dishonesty was fundamentally incompatible with continuing to be a registered social care worker. The Registrant had been dishonest with a number of different people.

The Registrant had put the public at risk by working in a job beyond his competence at the London Borough of Ealing. These matters came to light due to the failings in the Registrant's performance and professionalism. The Committee decided to remove the Registrant from the register because his behaviour was a serious departure from the relevant standards in the code and/or confidence in social care services would be undermined if he was not removed.

**The Committee has decided to revoke the Interim Suspension Order imposed by the Preliminary Proceedings Committee on 25 September 2009.**

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**This decision shall take effect immediately, in accordance with paragraph 25(4) of Schedule 2 to the Rules.**

**The effect of this decision is that you are removed from the Register and must not practise as a social worker, or purport to be a registered social worker able to practise while the order is in place. To do so may result in prosecution. This is in accordance with Part IV(61) of the Care Standards Act 2000.**

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)*

It should further be noted that the First-tier Tribunal does not have jurisdiction to extend this 28 day period and any appeal must be submitted to the Tribunal within that timescale.

Signed.....

Clerk to the Conduct Committee

Dated.....