

In the Care Tribunal

CQ (Appellant)

and

Northern Ireland Social Care Council (Respondent)

Venue: Dungannon Courthouse
46 Killyman Road
Dungannon
BT71 6DE

Date: 16th September 2019

In attendance:

Tribunal Panel: Chairman: Diane Drennan

Lay Members: Mary O'Boyle and Christine McLaughlin

Legal Representation: Mr M O'Brien of Counsel instructed by John Fahy & Co solicitors for the appellant. Mr A Gilmore of DLS for the Respondent

Decision: The appeal is dismissed

The Appeal

1. The appellant CQ appeals under section 15 of the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended and substituted by section 5 of the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016, against the decision of the Registration Committee of the Northern Ireland Social Care Council ('the Committee') dated 30th April 2019 to refuse to register her on the Social Care Register.

The Law

2. Section 3(1) of the Health & Personal Social Services Act (Northern Ireland) 2001 ('the 2001 Act') requires the Respondent to maintain a register of social workers and social care workers. Section 4(1) of the 2001 Act states that an application for registration must be made to the Council in accordance with the relevant Rules, which are the NISCC (Registration) Rules 2017 ('the Rules').

3. Section 5 of the 2001 Act deals with the grant or refusal of registration, with a requirement by section 5(1)(a) that the Council be satisfied that the applicant is of good character.
4. The 2001 Act, by section 9, provides for the preparation by the Council of Codes of Practice, which lay down the standards of conduct and practice expected of social care workers, with a requirement that the Code is taken into account by the Council in making a decision and also in any proceedings on an appeal against such a decision. The relevant code is the 'Standards of Conduct and Practice for Social Care Workers' ('the Code of Practice') issued by the Council in November 2015. By Standard 2: "a social care worker ...must strive to establish and maintain the trust and confidence of service users and carers". This includes in 2.1 "Being honest and trustworthy" Standard 5 states "As a social care worker, you must uphold public trust and confidence in social care services". A social care worker must not by Standard 5.1 "Abuse, neglect or harm service users, carers or colleagues" and by Standard 5.8 "Behave in a way, in work or outside work, which would call into question your suitability to work in social care services". This Code was reissued in August 2019.
5. Rule 4(10)(b) of the 2017 Rules states that the Council shall not grant an application for registration unless "it is satisfied as to the applicant's good character, conduct, competence and health". Rule 15(1)(a) requires the Council to refer to the Registration committee ('the Committee') "any application for registration... which it is not minded to grant". Under Rule 20(16), the Registration Committee may: *inter alia*
- (a) Grant the application for registration
 - (b) Refuse the application for registration
 - (c) Impose conditions on registration for a specified period.
6. Section 15 of the Health and Personal Social Services Act (Northern Ireland) 2001 (as amended and substituted by section 5 of the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 provides for an appeal against a decision of the Council in respect of registration to the Care Tribunal. By section 15(2): "On the appeal, the Care Tribunal may:
- (a) confirm the decision,
 - (b) set aside the decision, or
 - (c) substitute for the decision appealed against any other decision that could have been made".

Preliminary Directions hearing

7. On 15th August 2019, a preliminary directions hearing was held dealing with the exchange of documents, preparation of a tribunal bundle and the fixing of a hearing date. On that date, a restricted reporting Order was made by the Chairman under regulation 19 of the Care Tribunal Regulations (Northern Ireland) 2005 (as amended).

This Order was confirmed by the Tribunal on the date of the hearing: 16th September 2019 and continues in force.

Burden and Standard of Proof

8. The burden of proof is on the appellant CQ. It is for the appellant to show that she is a person who meets the standards of good character, conduct etc, as set down in Rule 4(10)(b) of the 2017 Rules [DS v NISCC] NISCC/1/2009 at paragraph 9.
The standard of proof is the civil standard, that is, the balance of probability, as defined in **Re H & Others (Minors) [1995]UKHL 16: paragraph 73**:
"The balance of probability standard means that a court is satisfied that an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not".

Grounds of Appeal

9. The appellant lodged her appeal dated 13th May 2019 on the grounds that the Committee had made *"some unreasonable findings in its decision of 30th April 2019"*. She referred in particular to the finding that *"I have sought to deflect my involvement or responsibility for the incidents that lead to my dismissal from (T) Care Home .."* The appellant also referred to her *"genuine remorse"*, stating: *"I believe the decision to refuse my application for registration was disproportionate in all of the circumstances....I do not believe that the Committee took into account or gave enough weight to my attitude towards these incidents.... The Committee did not appear to take into account the effect that refusing my application would have on me personally"*.

Background

10. The appellant commenced work at S Care Home (S) as a care assistant on 14th January 2019. She is currently employed at S as a domestic assistant. The appellant had previously been employed by Z Care Homes LTD (Z) at T Care Home (T), working in the area of elderly dementia care, until her dismissal on 14th March 2017. After her dismissal she worked as a care assistant in a private establishment (X) for 2 years, caring for a client *"one on one"*.
11. On 29th March 2017, the respondent Council received an unregistered worker referral from CK, the home manager and disciplinary officer of Z, which advised that CQ had been dismissed from her employment at T for gross misconduct by neglect of adults at risk. The misconduct related to a failure to carry out night checks on the 17th and 18th February 2017 (identified on the Home's CCTV system). The referral form attached incident reports from the CCTV reviewer in relation to 4 rooms. There was a lack of

checks on 17th February 2017 in rooms 7, 10 and 23, with a failure to check room 1 on the 18th February 2017.

12. The appellant was suspended pending investigation and a meeting took place on the 22nd February 2017. During the meeting, CQ admitted that checks had not been carried out in rooms 7, 10 and 23 and could offer no explanation. Regarding room 1, she stated that the checks were carried out from outside the room by looking round the door. In relation to room 7, the resident rolled out of bed onto a 'crash mat' on the floor and had been on the floor for over 2 hours. Reference was made to: *"The reviewer (contacting) the home (by telephone) at approx 4.11 to make sure that staff were aware that the resident had rolled out of bed"* and to no checks being carried out from 4.26 until 7am .. CQ stated: *"When we got the phone call we were in the middle of doing the round ..."* The meeting also discussed issues regarding the recording of checks on residents. At the end of the meeting the appellant stated: *"I'm feeling so sorry"*.
13. A disciplinary meeting was held on 2nd March 2017. Again, no explanation was given by CQ as to why the night checks were not carried out in rooms 7, 10 and 23. In Room 7, the resident, having rolled out of bed onto a 'crash mat' on the floor, had been on the floor for 2.5 hours before the home were alerted by telephone. After he was assisted back to bed, he was again left unchecked for a further 2.5 hours. In relation to Room 1, the appellant agreed that she was checking from the corridor and not looking in properly. The disciplinary hearing also dealt with recording in the Night Book, with the appellant admitting that where her initials 'CQ' appeared on the nights in question, these had actually been filled in by another member of staff. After the disciplinary meeting, the appellant was subsequently dismissed.
14. At the time of the employer referral, the appellant was not registered with the Council, no investigations were therefore carried out by the respondent. However, the Council wrote to the appellant on 30th March 2017 informing her that the information contained in the referral would be retained and taken into consideration should she decide to apply for registration in the future.
15. On 22nd January 2019, the appellant submitted an online application for registration. In answer to the question *"Have you ever been dismissed from any employment or resigned during an investigation or disciplinary proceedings, whether within or outside the UK?"*, she chose the 'No' option.
16. The Council contacted the appellant on 7th February 2019, regarding her failure to mention her dismissal from T and asking whether she had made her current employer, S, aware of the circumstances of her dismissal, at the point of employment. In an email dated 19th February, the appellant stated *"The reason I didn't put in I was dismissed because I knew use knew of it so I didn't think I had to put in again so I deeply apologize for that"*. The appellant also stated: *"I am now employed by (S) care home and they do know I have been dismissed from (T) and made aware of the reason of my dismissal"*.

17. The appellant contacted her employer at S on 11th February, telling the manager GB that, in a letter from the Council, she had been advised to inform her current employer of her dismissal from T. In a note of a subsequent meeting held on the 19th February between GB and the appellant, GB referred to the dismissal arising "*out of the investigation of an incident*", where a resident had fallen out of bed onto a crash mat. No other incidents or issues were noted and no mention was made of a phone call being received from a CCTV reviewer alerting the home to the incident. When asked (by GB) why she did not disclose this information on the application form or at interview, the appellant stated that she thought T would have informed S. GB referred to a reference, which was of a good standard, being received from a Registered Nurse working at T which did not disclose the incident.
18. The Council contacted S on 21st February 2019, who indicated that they had been unaware of the appellant's dismissal by Z at the time she commenced her employment. The reason for CQ leaving her employment at T was left blank in her application form for employment at S.
19. On 22nd February 2019, the appellant emailed the Council to explain the reason for her dismissal from T. In this email, CQ referred to the incident which took place in Room 7, with no mention of the other incidents. She also referred to finding "*the resident laying on the blue mattress...*" with no mention of the phone call from the CCTV reviewer. She stated that she had no excuse for what had happened, described her actions as "*reckless, thoughtless and selfish*" and said "*I don't want this one incident to define who I am*". The appellant referred to taking full responsibility, learning from her mistakes and stated that she had referred to her employer at X what had happened at T. When admitting that she had not mentioned her dismissal when filling in her application form for S, she stated: "*To be honest, I thought my references from (T) would have informed them..*"

The Committee's Decision

20. On 25th April 2019, the Committee met to consider CQ's application for registration on the Social Care Register. The application was refused and a written decision was issued dated 30th April 2019. The appellant was neither present nor represented at the meeting. The Committee had no references or testimonials before it from the appellant, other than the written submissions contained in her emails dated 19th and 22nd February 2019.
21. In the context of Rule 4(10)(b) (A committee must be satisfied, among other things, as to the Applicant's good character and conduct, competence and health) the Committee examined the details of the incidents which led to the dismissal of the appellant, noted in paragraphs 11-13 above.
- The Committee when considering the incidents stated: "*The allegations against the Applicant were very serious and placed vulnerable service users at risk of serious harm.*"

The Committee noted that both during the investigation carried out by (Z) and when questioned by (S) she sought to deflect her involvement in these incidents and her responsibility". The Committee also referred to the online registration application (see paragraph 15) and stated: "This failure to disclose is compounded by the knowledge of the Applicant that the Council was aware of the circumstances of her dismissal and her seeking to use this to explain her incorrect assertion". The Committee also noted that "the Applicant's failure to properly complete her employment application with (S) was done with the knowledge that she has been previously dismissed" and considered that "the Applicant's actions in providing false information on her online registration form and failing to disclose her previous dismissal application to her current employer, constituted evidence of her repeated dishonesty".

22. The Committee, having looked at its options under Rule 20(16), (see paragraph 5), considered the principle of proportionality and weighed the interests of the Applicant against those of the public, decided that the Applicant had not demonstrated that she was of good character and conduct. It referred to the lack of references or testimonials before it other than the written submissions (paragraphs 16 and 19) and pointed out the lack of any information regarding the financial impact on CQ of any decision made. However, it stated that the submissions showed "some insight by the Applicant into the seriousness of her actions", but mentioned the repeated dishonesty noted above. The Committee did not accept that CQ was a person of good character and conduct and accordingly refused her application for registration.

Summary of the submissions and evidence

23. The Tribunal has carefully examined the Tribunal bundle which includes 3 character references: the first from GB, the Home Manager of S (16th May 2019), an undated reference from AG, a senior care assistant at S and a reference from JR, a care assistant at X (dated 16th May 2019). It has also heard the evidence of the appellant in person.
24. In the opening submission for the appellant, Mr O'Brien stated that the key facts were not in dispute, also accepting that disclosure was not made on the application form. He stated that that the appellant had faced up to her conduct and described how she was now working at S, he conceded that CQ was not forthcoming in her application to S, but emphasized her good work there and referred to the character reference submitted by the home manager GB. He stated that a proportionate response would be to allow the appellant's registration.
25. The opening submission by Mr Gilmore on behalf of the respondent can be summarized as follows. Relevant legislation and the Rules (see paragraphs 2-6 above) were referenced, in particular the test contained in Rule 4(10)(b), where the Council shall not grant an application for registration unless "it is satisfied as to the applicant's good character, conduct, competence and health". Details of the allegations made against the

appellant and the content of the investigatory and disciplinary meetings were referred to. Regarding the online application, it was submitted that the appellant's negative answer to the question about dismissal etc was a deliberate attempt to gain registration without disclosing her dismissal from T.

26. The respondent's opening submission also referred to the appellant's disclosure to her current employer, S, after the Council's letter to her of 7th February (paragraph 16 above) and therefore not at the point of employment. The submission also referenced the meeting between GB, the manager of S Home and CQ, where there was a reference to Room 7 and no reference to the incidents in Rooms 1, 10 and 23 (see paragraph 17). The Council's position that the appellant had tried to deflect responsibility was maintained, as well as concerns about the appellant's continuing lack of honesty. The submission stressed the seriousness of the incidents and stated that the Council relies on the honesty of the social care work force. It referred to the Committee's decision, stating that on the evidence before it, the refusal to register was the only decision it could have made.
27. After Mr O'Brien had disputed that the appellant had deflected responsibility, CQ gave evidence. She described her previous work as a care assistant. Referring to the incidents in T home, she stated "*I took full responsibility for what happened that night. It shouldn't have happened. I should have been more aware*". The appellant described the work she carried out at X, caring for one disabled person, stating that there had never been an issue about her character or performance. In answer to questions as to why she did not disclose her previous dismissal to her current employer, S, the appellant answered that she was "*scared and didn't know how they would react*". She accepted that S had not been told and said: "*It was stupid*". When asked why she ticked the 'no' box in answer to the question about dismissal etc on the online registration form, CQ replied: "*I thought they would know. I didn't want to go through it again. I have no excuse. No reason. Stupid*".
28. The appellant gave evidence as to why she had decided to work as a carer, describing care she gives to her grandmother. CQ stated that she was passionate about caring and admitted she had made mistakes. Referring to her current work at S, she gave evidence that she loved working there and would be able to take up work as a care assistant again if she was registered. She stated that she currently works as a domestic and works 20 hours a week. When employed as a care assistant, she worked 34 hours a week.
29. CQ was referred to the reference provided by GB, her manager at S by her legal representative. She said that GB would oversee her working and again accepted that GB had not been told about her dismissal from the outset. Reference was also made to the character references received from AG, a senior care assistant at S and JR from X. The appellant's representative asked the Tribunal to overturn the Committee's decision and allow the appellant to be registered.

30. During cross examination by the respondent's representative, the appellant made a number of admissions relating to the incidents which led to her dismissal from T. She accepted that she had failed to make checks in a number of rooms, not just in Room 7. CQ also accepted that the resident in Room 7 had been out of bed for 2 hours and that there were no further checks carried out after he was put back to bed. She also agreed that the night check records were not completed directly by her and that such an action was dishonest. CQ also agreed that there was no reference to issues regarding documents in her email to the Council of 22nd February 2019.
31. In answer to a question as to why she had not mentioned her previous dismissal from T to her current employer, CQ said that she was scared to mention the dismissal to S: "*I was afraid of what they would think of me as a person*". Further questioning referred to the Council's question in their letter of 7th February, as to whether S were made aware of her dismissal and the reasons for it at the point of employment, as well as the appellant's reply in her email of 19th February 2019. CQ accepted that her answer wasn't the full truth. She also conceded that failing to tell S about her previous dismissal showed a lack of honesty and openness.
32. The Chairman and Panel members also asked questions of the appellant. When asked a question by a Panel member as to what factors have changed for her, CQ replied that she had taken responsibility for her actions, adding that she would hate not to work in caring. In answer to a question from a Panel Member about the circumstances surrounding the incidents which occurred on the 17th and 18th February 2017, the appellant stated that on the nights in question 2 care assistants and a nurse were on duty and that all 3 were responsible for making sure the checks were carried out.
33. CQ confirmed in answer to questions from the Chairman that in her work at S she was monitored when working as a care assistant, but she is not monitored now that she is working as a domestic assistant. In answer to a question about whether she had mentioned all the incidents occurring on the 17th and 18th February to GB in her meeting with her on the 13th February CQ stated: "*I told her what I could*".
34. In his closing submissions, Mr O'Brien on behalf of the appellant again accepted that the incidents leading to her dismissal were serious matters and, with her failure to disclose, amounted to serious lapses of judgment. He asked the Tribunal to take a holistic view of the incidents, indicating that the focus of CQ's recollection was on the events in Room 7 where a resident suffered significant harm. He reiterated CQ's passion for caring and referred to GB's reference, asking that significant weight be given to this, as GB provided this with full knowledge of what had happened and was confident that CQ would perform well. He asked that the Tribunal take a proportionate response and allow the appellant to be registered.

35. The closing submissions for the respondent referred to the applicant's need to prove that she was of good character and conduct as well as the misconduct which occurred. Lack of honesty and openness was also referred to and the fact that one of the appellant's own referees (GB) had expressed disappointment. Concerns as to significant omissions of relevant information in CQ's application to S were expressed, with the respondent's belief that any explanations given by the appellant were only partial. CQ's failure to make proper disclosure on the registration form was also reiterated, as well as the respondent's stance which maintained that the appellant had deflected or minimized her role. The submission concluded by stating that the respondent Council were concerned about the appellant's honesty regarding the registration process, indicating that there were issues of public protection and public confidence.

Conclusions and reasons

36. The conclusions and reasons noted below have been reached unanimously by the Tribunal.

37. The Tribunal must decide whether to affirm or set aside the decision of the Committee made on the 30th April 2019 not to register CQ on the social care register, or to substitute any other decision that could have been made. Unlike the Committee, the Tribunal heard the appellant, both through the submissions made on her behalf and her own oral evidence. The Tribunal also read and carefully considered the 3 character references referred to in paragraph 23 above. It must decide whether the appellant has produced sufficient evidence as to her good character and conduct, as required by Rule 4(10)(b).

38. The decision of the Committee stated that "*The allegations against the Applicant were very serious and placed vulnerable service users at risk of serious harm*". The grave nature of the incidents described in detail at paragraphs 11-13 above has not been disputed by the appellant or her legal representative.

39. The Tribunal concludes that these were extremely serious incidents, involving frail elderly residents suffering from dementia who could have suffered significant harm. It also finds that at no point did the appellant specifically refer to or acknowledge the effect her actions would have had on the residents. The Tribunal is entitled to infer that the admitted instances of misconduct which occurred on the 17th and 18th February 2017 would have had a considerable effect on the vulnerable elderly residents involved.

40. The Tribunal concludes that there are important issues of public protection and public confidence involved in this case. Any decision made must reflect these matters. In the English Care Standards case of **CN v The Secretary of State [EWCST 398 at 29]**, Judge Pearl stated: "*We cannot underestimate the importance we attach to public confidence. When the tribunal considers the question of unsuitability, it must look at the factual situation in the widest possible context*".

41. The appellant states in her grounds of appeal and through the presentation of her case on appeal that she did not attempt to deflect her involvement or responsibility for the incidents that led to her dismissal. She also states "*her genuine remorse*" and her apologies about her failures to disclose on her online application for registration and in her application to her employer.
42. Regarding the issue of deflection of responsibility for the incidents, the Tribunal accepts that the appellant took some responsibility for her actions. It has reviewed the incident reports, the notes of the investigatory and disciplinary hearings, GB's meeting notes of 19th February 2019, as well as the appellant's own email of 22nd February 2019.
43. However, the Tribunal concludes that the appellant did attempt to deflect responsibility by, in particular, her failure to mention in her email of 22nd February 2019 (regarding the incident in Room 7) that the CCTV reviewer had alerted T about that incident, which seems at odds with CQ stating: .. "*we found the resident laying on the blue mattress..*", as well as there being no reference to the incidents in Rooms 1, 10 and 23. The appellant also stated: "*I don't want this one incident to define who I am*" in the email. In GB's meeting notes of 19th February 2019, "*the investigation of an incident*" was referred to and the incident which occurred in Room 7 was described. There was no mention of the incidents in the other rooms, which also involved very vulnerable people, one of whom, the resident in Room 1, had bed rails and should have had hourly checks.
44. While the Tribunal accepts that the appellant did feel some regret about the incidents, especially that involving the resident in Room 7, it concludes that her failure to mention the incidents in Rooms 1, 10 and 23 in the email of 22nd February 2019 shows a lack of remorse or insight as to what happened to the residents in these rooms. CQ may have concentrated on the chain of events in Room 7, as this could have caused significant harm to the resident, but the other incidents were also very serious, with a risk of harm to those involved. Also, as mentioned above (paragraph 39), the appellant did not specifically mention in her email or at any time thereafter the effects her actions may have had on the elderly and vulnerable residents in Rooms 1, 7, 10 and 23.
45. In relation to the appellant's failure to disclose details of her dismissal in her online application for registration and in the application for employment with S (see paragraphs 15-17), the Tribunal accepts that these failures were not disputed by the appellant and her legal representative. However, the employment application was dated the 27th September 2018 and the online registration form was filled in on 22nd January 2019, a considerable time after the appellant's dismissal from T, more than sufficient time for her to reflect on the issues which led to her dismissal.
46. In relation to the online application, the appellant stated in her 19th February 2019 email to the respondent, that she thought the Council would know about it. She stated in her evidence before the Tribunal that she "*didn't want to go through it all again*" and offered no excuse or reason for her actions. Having heard the appellant and considered all the

evidence, the Tribunal has concluded that the question regarding dismissal from employment was a very straightforward one. It does not believe that CQ ticked 'no' because she thought the respondent already knew the details of her dismissal. It accepts the respondent's submission that answering in this way constituted a deliberate attempt to gain registration without disclosing the dismissal and finds that this action was dishonest. The Tribunal also concludes that the public must have confidence in the registration system and that the appellant's actions in failing to disclose were serious and that such actions could impact public confidence in the system.

47. Regarding the failure to disclose in the employment application, the Tribunal concludes that the failure to provide details as to her reason for dismissal was also dishonest. In reaching this conclusion, it has considered the length of time between CQ's dismissal on the 14th March 2017 and the completion of the application form on the 27th September 2018, which points to ongoing dishonesty. It also considered the appellant's admission in cross examination that disclosure was only made to her employer S after the Council wrote to her on the 7th February 2019 and her acceptance during cross examination that her explanation in the email of 22nd February as to why she had not disclosed her dismissal to S was not the full truth.
48. This is a case involving an appellant who has worked in a caring capacity for several years. In her email to the Council dated 22nd February 2019, CQ stated "*I was and am still a great carer*", she described her passion for caring and her sorrow at her past mistakes, saying that she had learnt from them. In her evidence before the Tribunal, the appellant has said that she is passionate about caring, she also referred to putting needs of those she cares for before her own, also stating that she had been scared and didn't have the support she has today. In support of her appeal, CQ has produced 3 character references as noted in paragraph 23. These were not produced to the Committee, but have been carefully considered and weighed by the Tribunal, who did not however have the opportunity of questioning the referees.
49. The first reference from GB, the Home Manager of S, dated 16th May 2019, is a full and, in some respects, a positive reference, in that it refers to CQ's competence, good attitude and satisfactory work performance. The referee also refers to being disappointed by the appellant's "*lack of honesty and openness regarding this matter*". GB also noted the appellant's need for guidance and closes by stating: "*she does genuinely display regret and reflects on her actions and learning from this incident*". The appellant, through her legal representative, asked that the Tribunal accord significant weight to this reference, as it was made with full knowledge of the facts. However, the Tribunal is unable to give full weight to this testimonial, as it did not have the opportunity to question GB as to how complete her knowledge of the facts was, bearing in mind her meeting notes dated 19th February 2019, mentioned in the reference, where only one incident was mentioned (see paragraph 17), coupled with the use of the words "*this incident*" and "*this matter*", quoted above.

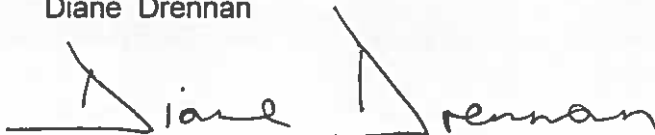
50. The short undated reference from AG, a work colleague of CQ, is also in positive terms. It describes the appellant as *“friendly and hard working with a natural flair for caring”*. It also refers to her being articulate and professional when carrying out her duties. However, this testimonial makes no mention of whether AG knew of the incidents which led to the appellant’s dismissal and, without the opportunity to question the referee, can only be accorded limited weight.
51. The final reference from JR, a co-worker with CQ at X private establishment, dated 16th May 2019, strongly affirms the appellant’s ability to care for her client, stating that she provided *“the upmost care for our client.... and always showed her love and passion for her work through her relationships with staff, as well as our client”*. The reference states that JR supports CQ in her appeal. While this very positive and supportive reference does describe excellent work carried out by the appellant, the Tribunal cannot be sure, without the opportunity to question JR, if the reference was written with full knowledge of all the incidents which led to CQ’s dismissal and therefore cannot accord to it the significant weight it would otherwise have received.
52. In her grounds of appeal, the appellant referred to the Committee’s decision to refuse her application as *“disproportionate in all the circumstances....”* also stating that *“The Committee did not appear to take into account the effect that refusing my application would have on me personally”*. The Tribunal has examined the Committee’s decision in the context of whether it was proportionate or balanced, having had the benefit of hearing the appellant and reading the references submitted on her behalf.
53. It concludes that, given the appellant’s choice not to attend the Committee hearing, and in the absence of any independent testimonials or submissions from CQ regarding her financial situation, the Committee showed in their decision that they had examined the documentation before them, had weighed up the interests of the appellant and the public and had arrived at the proportionate decision that the appellant had not produced sufficient evidence to show that she satisfied the test in Rule 4(10) (b) (The Committee must be satisfied as to the applicant’s good character and conduct) and should therefore not be registered.
54. Regarding the Standards and Practice for Social Care Workers, set out in paragraph 4, the appellant, by her admitted misconduct and dishonesty, has breached Standard 2 and 5. By Standard 2: *“a social care worker ...must strive to establish and maintain the trust and confidence of service users and carers”*, which includes in 2.1 *“Being honest and trustworthy”*. Standard 5 states: *“As a social care worker, you must uphold public trust and confidence in social care services”*. A social care worker must not by Standard 5.1 *“Abuse, neglect or harm service users, carers or colleagues”* and by Standard 5.8 *“Behave in a way, in work or outside work, which would call into question your suitability to work in social care services”*.

55. The Tribunal has fully considered the effect which a decision not to register her on the Social Care Register would have on the appellant. However, it concludes that, given the appellant's serious misconduct and dishonesty, the important issues of public protection and public confidence involved in this case outweigh any consequences of non registration upon the appellant.

56. The Tribunal has decided, after much deliberation, for the reasons given above, to confirm the Committee's decision dated 30th April 2019, which refused CQ's application for registration. Before arriving at its decision, the Tribunal discussed whether to substitute registration with conditions instead of a refusal to register. However, after careful consideration, it did not consider that registration with conditions would be appropriate in this case, bearing in mind the conclusions arrived at by the Tribunal. The appellant's appeal is therefore dismissed.

57. Although the Tribunal has decided to dismiss the appeal and the appellant will therefore not be registered on the Social Care Register at this time, it acknowledges that she is anxious to work in a caring capacity and recognizes the positive aspects of the references submitted on her behalf, especially that submitted by GB who has supported her continuing employment at S Home. With the benefit of continuing experience, support and insight, CQ can apply to the Council for registration on the Social Care Register in the future.

Diane Drennan

Handwritten signature of Diane Drennan in cursive script, appearing as 'Diane Drennan'.

Chairman Care Tribunal

Date Decision recorded in Register and issued to parties