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**REPORT OF PROFESSIONAL CONDUCT COMMITTEE FOLLOWING AN INQUIRY
HELD PURSUANT TO SECTION 58 OF THE HEALTH AND SOCIAL CARE
PROFESSIONALS ACT 2005 ("THE ACT")**

Name of Registrants: [REDACTED]

Registrants in Attendance: Yes

Registration Board: Social Workers Registration Board

Register: Social Workers

Registration No: [REDACTED]

Registered Address:
[REDACTED]
[REDACTED]
[REDACTED]

Case Number: [REDACTED]

Date(s) of Inquiry: 04 and 05 December 2023

Members of Inquiry Committee:
Ms. Susan Ahern - Chairperson
Ms. Aileen Sheehan – Physiotherapist Registrant Member
Ms. Ruth More O'Ferrall - Social Worker Registrant Member

Legal Assessor: Mr. Nicholas Butler SC

Appearances:

For the Registrar: Mr. Remy Farrell SC Instructed by Ms. Hannah Unger,
Fieldfisher Solicitors

For the Registrant: Ms. Lorna Lynch SC Instructed by Ms. Liz Lyons,
Hayes McGrath Solicitors

Expert Witness Mr. Ruadhan Hogan, Social Worker

Otherwise than in Public

The Nature of the Complaint that resulted in the Inquiry:

The Preliminary Proceedings Committee (“the Preliminary Committee”) on the 11 July 2019 having considered all information furnished to them in relation to the complaint of the Registrar Social Workers Registration Board pursuant to Part 6 of the Act, was of the opinion that there was sufficient cause to warrant further action being taken in relation to the Complaint against [REDACTED] on the grounds of **professional misconduct** within the meaning of Section 52(1)(a) and **poor professional performance** within the meaning of Section 52(1)(b) respectively and as those terms are defined by Section 50 of the Act.

The Preliminary Committee referred the complaint to the Professional Conduct Committee on the grounds of **professional misconduct and poor professional performance** as set out in section 52(1)(a) and 52(1)(b) of the Health and Social Care Professionals Act, 2005

Allegations

The Committee noted that the following allegations were contained in the Notice of Inquiry:

- “1. On one or more occasions between on or around 07 May 2015 and on or around 29 December 2015, failed to adequately review the Tusla file in respect of [REDACTED] and/or failed to identify that a significant data breach had previously been found to have occurred on that file; and/or
2. On or around 29 December 2015, when you were aware of the significant media coverage pertaining to [REDACTED] failed to take one or more appropriate steps prior to drafting and/or sending and/or arranging for the sending of a letter dated 29 December 2015 to [REDACTED] and/or
3. Between on or around 28 January 2016 and on or around 19 June 2016, failed to ensure that an appropriate apology was issued in a timely manner to [REDACTED] to include providing any or any adequate explanation in relation to why the letter dated 29 December 2015 issued to [REDACTED] and/or
4. Between in or around June 2016 and in or around July 2016, failed to provide and/or arrange any or any adequate briefing and/or handover and/or guidance note to [REDACTED] Principal Social Worker, Tusla and/or the Sexual Abuse Regional Team (SART) when the [REDACTED] was transferred from Tusla to SART; and/or;
5. Such further allegations as may be notified to you in advance of the inquiry;”

The Notice of Inquiry also alleged that these allegations constituted, individually, cumulatively and/or in combination, professional misconduct (being breaches of specified provisions of the relevant Code) and/or poor professional performance.

The Inquiry was held jointly with an Inquiry into allegations against [REDACTED]

Evidence presented to the Committee:

The Committee heard evidence from the following witnesses on behalf of the Registrar:

1. Ruadhan Hogan – expert witness

The Committee heard evidence from the following persons on behalf of the registrant:

None.

The Committee considered the following exhibits:

1. Core Book
2. Letter from [REDACTED] health dated 23 November 2023
3. Expert Witness Report

Preliminary Matter

An application on behalf of the Registrant to hold the Inquiry in private was heard on 21 October 2023 and refused for the detailed reasons set out by the Committee in its decision. On the first day of the Inquiry, a further application was made by the Registrant on more detailed grounds and this time supported by a detailed medical report. The application was supported by [REDACTED] and the Registrar adopted a neutral position. On this occasion, the Committee acceded to the application and gave its reasons (Transcript, Day 1, page 24). Both applications were heard in private in accordance with the usual practice and the relevant authority.

The Committee, at the Registrar's request, also issued its ruling and reasons in a form agreed by the parties which could be made public without defeating the purpose of the ruling. This was done on the second day of the Inquiry.

Before the ruling in the agreed form was issued, the Committee was informed that information had appeared in the press and media about the ruling and, more significantly, the Committee's reasons. It appeared to the Committee that a breach of its ruling may have taken place. The facts presented to the Committee were not such as to allow for any definitive conclusions. Neither party asked the Committee to take any particular step arising from these events. The Committee and the parties agreed that, for the time being at least, no further step should be taken. This approach was consistent with the Legal Assessor's advice and was adopted by the Committee which nevertheless took a very serious view of what had transpired.

The Committee expressed its concern but decided to proceed with the issuing of the agreed reasoned ruling and to conclude the Inquiry without further distraction. The exchanges, advice and decision of the Committee appear at pages 60 to 70 of Day 2 of the Transcript.

In the Committee's view, the matter is of sufficient concern that it would be appropriate for the Council to consider what steps should be taken to prevent any recurrence of these events in the future.

Findings of the Committee:

At the outset, the Registrant made admissions in relation to certain allegations. On this basis, the Registrar did not pursue the remaining allegations.

Specifically, the Registrant admitted the facts in Allegation 1 and Allegations 2 and that these on a cumulative basis amounted to Poor Professional Performance – which is defined as “*in relation to a registrant of a designated profession, means any failure of the registrant to meet the standards of competence that may reasonably be expected of registrants practicing that profession*”.

In these circumstances the Registrar did not pursue the remaining allegations or the allegation that:

Allegation 1 and Allegation 2 amounted to Professional Misconduct; or that

Allegation 1 or Allegation 2 taken individually amounted to Poor Professional Performance.

In considering this matter, the Committee applied the criminal standard of proof, namely beyond reasonable doubt.

Allegation 1

“On one or more occasions between on or around 07 May 2015 and on or around 29 December 2015, failed to adequately review the Tusla file in respect of [REDACTED] (the [REDACTED] and/or failed to identify that a significant data breach had previously been found to have occurred on that file; and/or”

Findings as to facts:

The Committee found this Allegation proven as to fact.

For the sake of completeness, it was agreed, and the Committee was satisfied that, the reference to “*a significant data breach*” in the Allegation was a reference to the fact that two serious and false allegations against [REDACTED] were on a Tusla file, namely that he had digitally penetrated a young child and “*that the alleged perpetrator of this abuse threatened her father if she said anything*”.

Reasons:

The admission by the Registrant from the outset in respect of this Allegation. Further, the factual matters recited in in Mr. Hogan’s Expert Report and evidence of Mr Hogan.

Findings as to Poor Professional Performance:

The Committee found that these facts, taken cumulatively with its findings in relation to Allegation 2 amounted to Poor Professional Performance.

Reasons:

The admissions of the Registrant in this regard. Further, the evidence of the Expert Mr Hogan.

Allegation 2

“On or around 29 December 2015, when you were aware of the significant media coverage pertaining to ██████████, failed to take one or more appropriate steps prior to drafting and/or sending and/or arranging for the sending of a letter dated 29 December 2015 to ██████████; and/or”

Findings as to facts:

The Committee found this Allegation proven as to fact.

Reasons:

The admission by the Registrant from the outset in respect of this Allegation. Further, the factual matters recited in Mr Hogan’s Expert Report and evidence of Mr Hogan.

Findings as to Poor Professional Performance:

The Committee found that these facts, taken cumulatively with its findings in relation to Allegation 1 amounted to Poor Professional Performance.

Reasons:

The admissions of the Registrant in this regard. Further, the evidence of the Expert Mr Hogan.

Recommendation as to Sanction

1. In the Committees view the cumulative findings are of Poor Professional Performance at the serious end of the spectrum.
2. The Registrant’s professional duty to review the file and certainly to take any further necessary steps in advance of the very serious step of issuing the ‘Barr letter’ (29 December 2015) was not an onerous task in the context of her professional obligations.
3. No reason or excuse for these failures was advanced in evidence.. The Registrant exercised her right not to give evidence. The Committee drew no adverse inference from

this choice. However, this meant that there was no evidence of what had actually happened or of any explanation of a mitigating nature.

4. The proliferation of seriously false information that resulted may have been inadvertent but was no less serious because of that.
5. The consequences of this total lack of professionalism were predictably catastrophic and devastating for [REDACTED]. Even if such consequences were not foreseeable in all their details, the extent of the consequences were devastating for [REDACTED]
6. Issuing a “Barr letter” is very serious and involves the transmission of allegations of abuse, including, as in this instance, abuse of the worst kind. For this reason, any failure of a Social Worker to be thoroughly familiar with all available relevant facts is wholly unacceptable. It is all the more extraordinary that in this this case, the failure to conduct an appropriate review of the file occurred in the context of the intense media interest in the subject matter and the high public profile of [REDACTED] at that time.
7. It is also serious because these failures arose in the context of the Registrant’s professional work in child protection. The fact that she had specific responsibilities pursuant to her job description (whilst not in all instances synonymous with poor professional performance) which included references to being responsible for the overall management and performance of social work in keeping with good professional practice; delivery of a high quality social work service; and taking responsibility for a defined caseload; makes this failure particularly troublesome.
8. The Committee has had regard to the Guidance on Sanction document published by CORU. The Committee is aware of its obligation to act fairly and proportionately in deciding the issue of sanction and of its obligation to act proportionately in weighing the interests of the public against the interests of the Registrant and in measuring the admitted conduct against the range of sanctions. The Committee has heard and taken into account the submissions of the Parties and in particular, the submissions as to mitigation by Ms. Lynch counsel for the Registrant. The Committee has further had regard to the advice of the Legal Assessor.
9. The Committee is conscious that the primary purpose of sanction is to protect the public and serve the public interest. Whilst acknowledging that it may have a punitive effect upon the Registrant this is not its primary purpose.
10. The Committee identified a number of possible mitigating features;
 - First, the admissions of the Registrant are a mitigating feature. They relate to the facts of Allegations 1 and 2 and also to those facts amounting to Poor Professional Performance on a cumulative basis.
 - The Registrant engaged positively in the CORU process from the outset.
 - Reference to treating this case like any other, as part of a heavy workload, does not mitigate or reduce the seriousness of the Poor Professional Performance involved

which the Committee places at the higher end of the scale of seriousness.

- The purpose of the CORU process involves a particular focus on the individual social worker, the profession and the public interest. The Committee did consider the Registrant's experience during and in the aftermath of the Disclosures Tribunal and acknowledged that this experience was very difficult for her, both professionally and personally. However, as a mitigating factor, the Committee attaches only limited weight to this consideration and considers the Registrant's experience before the Disclosures Tribunal is largely a separate consequence of her actions.
 - Submissions were made in mitigation that the sanction recommendation should be informed by the passage of time since the events occurred in 2014. The Committee considered that this was not a factor to which it could accord any significant weight. Irrespective of when the failures occurred, they can only damage the reputation of the profession of social workers and the trust of the public in that profession.
 - In terms of insight, there was no evidence before the Committee of any full and proper understanding by the Registrant of the nature of her Poor Professional Performance, its consequences and potential consequences. Neither was there evidence of steps taken to address these serious shortcomings or minimise the risk of any recurrence. Before the Committee there was no apology or expression of remorse.
 - Responsibility for what occurred is not solely the Registrant's responsibility. Although there were shortcomings on the part of others within Tusla, including others with professional obligations and who were the Registrant's superiors. The Registrant should have checked the file to verify the accuracy of its contents.
 - The Committee noted the Registrant's unblemished career as a registered social worker, apart from the findings in this case, which is a mitigating feature.
11. The Committee was informed that the Registrant has retired due to ill health and will not be seeing to renew her social worker registration. In terms of the need to protect the public and the broader public interest this statement of intention does not in itself provide any reassurance, but it does allow for some further mitigation.
12. In light of the above, the Committee recommends that the Council consider the application of the following sanctions to the Registrant:

That the appropriate sanction should be the suspension of the Registrant's registration for a period of 18 months. The Committee is of the view in all the circumstance this would have a sufficient deterrent effect against any repetition and is the minimum sanction which, taking everything into consideration, reflects the paramount importance of protecting the public and serving the wider public interest.

Signed 

Susan Ahern
Chairperson

Date 20 December 2023